

Taking a Proactive Approach to Water Leaks

By: L. Hutch Moore
Moore & Reese, LLC

Imagine you wake up in the middle of the night to the sound of water streaming through your ceiling from the unit above. Unfortunately, this is becoming an all too frequent occurrence in multi-story condominium buildings. In fact, the most common casualty claim in buildings containing attached units involves water damage.

Oftentimes, it is only after the occurrence of such a casualty that a condominium unit owner realizes that there may not be adequate insurance in place to cover any necessary repairs and/or remediation to the unit. With that in mind, there are several proactive steps that a condominium unit owner can take to guard against any unpleasant surprises that may arise following a water damage event. Set forth below are two (2) of the more important things a unit owner can do to protect himself or herself from water damage.

1. Review the Association's Insurance Policy. The Georgia Condominium Act ("Act") requires condominium associations to secure and maintain casualty insurance to cover basic perils such as damage caused by fire, vandalism or windstorm. Under the Act, however, a condominium association is not required to carry insurance covering water damage that may originate from a sudden burst of water (i.e. a busted pipe or a leaking dishwasher or washing machine). Therefore, it is imperative to verify if your association actually maintains a policy providing coverage for water damage. If your association does in fact carry such a policy, then it is important for a unit owner to have his or her insurance agent review that policy so as to determine what additional or supplemental coverage may be necessary.

2. Review Your Own Homeowner's Insurance Policy. If your association does not maintain water damage insurance, or if it does maintain such coverage but the coverage is limited in nature, then it becomes all the more important for a unit owner to evaluate the coverage available under their own homeowner's insurance policy. In most instances, unit owners are required to maintain insurance on their unit to the extent not provided by the association. Many such homeowner issued insurance policies do not adequately address issues that can arise with water damage. For example, under the Act, a condominium association may only impose a deductible of up to \$2,500.00 per unit against an owner whose unit has been damaged by fire or other non-water related casualty. However, because an association is not required to maintain water damage coverage, this \$2,500.00 limitation does not apply in the case of a water incident. As such, there is no limit on the amount of the deductible under a water damage policy that may be assessed against the unit owner. Association maintained policies covering water damage typically will have a \$5,000 to \$10,000 or even higher deductible. While homeowner insurance policies known as HO-6 policies may provide some standard coverage for deductibles, generally such coverage is not sufficient to cover the deductible charged under a standard water damage policy maintained by the association. Therefore, it is important for an owner to ensure that his or her homeowner's insurance policy has sufficient coverage to cover the deductible under the association's policy.

In addition, most association insurance policies covering water damage do not typically cover repair or replacement of improvements the owner has made to the unit. For example, if the unit was originally built and sold with carpet but the owner installed hardwood floors, the owner may have to come out of pocket and pay to replace the hardwood floors as the association's policy more than likely will not provide such coverage.

The foregoing are only a few examples of proactive measures a condominium unit owner can take to ensure that they are adequately protected from water damage.

Moore & Reese, LLC is an Atlanta law firm that has extensive experience in handling all aspects of community association law. Moore & Reese, LLC also handles a wide variety of other legal matters including real estate, corporate transactions, wills and estates, litigation and employment law. In addition to the link to the firm's website set forth in this newsletter, you can also reach an attorney at Moore & Reese, LLC at (770) 457-7000.

The information presented in this article is solely for informational purposes and is not designed to render specific legal advice. If legal advice or other expert assistance is required, the services of a competent professional should be sought.