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Florida Condominium Owner Insurance Claims – I Have Water Damage In My Condo Unit, What Does the Association’s Insurance Cover?

July 22, 2012 by [Brett A. Kaplan, Esq.](#) [Leave a Comment](#)

As South Florida Condominium owners know, many things can go wrong to cause a water loss in their condominium unit. Whether you live in Miramar, Deerfield Beach, Coconut Creek, Doral, Lauderdale, Margate, Miami Lakes, Pembroke Pines or another area within Miami, Fort Lauderdale or Palm Beach, many units are over thirty years old and so it is not uncommon to experience pipe leaks, burst pipes, broken pipes, broken water heaters, failed toilet seals or even roof and window leaks. When these types of water intrusions occur, one may seek out a condominium water damage insurance claim lawyer to get some guidance on how to proceed in resolving this property damage loss and perhaps even assert condo water damage claims.

This attorney will probably inquire as to whether the water loss was from a common element (ie., a pipe behind the drywall, a roof leak and/or cracks in the exterior stucco/wall, parts of a unit that are typically considered common elements under one’s Declaration of Condominium), or an item that is the responsibility of the unit owner, such as a toilet that fails or a water heater that explodes. Usually, a Declaration of Condominium will state that items within a unit that touch air are the responsibility of the unit owner.

Once it is determined where the water intrusion originated from, the next big question is typically whether the water loss was the result of the negligence of the condominium association in failing to maintain the common elements. If the water damage is determined to be caused by this (ie., water penetrated an exterior wall or its stucco, a roof leak, a common air conditioning stack fails, a common sewage pipe backs up or fails, a common pipe or plumbing fixture fails, etc.), the association could be responsible for the water damage and resulting mold that may occur. On the other hand, many times, there are water intrusion losses caused by sudden and unforeseeable events such as Hurricanes or other wind storms, tornado’s, or possibly even a neighbors condo (or condo unit above yours)

wherein a relatively new water heater simply explodes due to a faulty seal. These types of losses are considered casualties. When a casualty occurs, both the condominium and unit owner's insurance could come into play.

As for a condominium association's insurance requirements, Florida Statute §718.111(11)(f), states that a property insurance policy issued or renewed on or after January 1, 2009, for the purpose of protecting the condominium must provide primary coverage for:

1. All portions of the condominium property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications.
2. All alterations or additions made to the condominium property or association property pursuant to s. 718.113(2).
3. The coverage must exclude all personal property within the unit or limited common elements, and floor, wall, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the unit and serve only such unit. Such property and any insurance thereupon is the responsibility of the unit owner.

Pursuant to this statute, because drywall is not specifically excluded, that would be the responsibility of the association under its insurance policy, minus the "wall coverings" such as paint or wall paper, which would still be the unit owner's responsibility.

This is the reason it is so important for a condo owner to have homeowners insurance to cover losses caused by a casualty, just in case damaged portions of the unit are not covered by an association's insurance policy.

For additional analysis of condo water damage claims, see my other [post](#).

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