



NEWS OF VALUE

NEW LAW CLARIFIES INSURANCE REQUIREMENTS FOR COMMUNITY ASSOCIATIONS IN MARYLAND

In April 2008, the Maryland Court of Appeals issued a ruling on the Maryland Condominium Act that caused much controversy in the insurance and legal communities (Dianne Anderson, et. al. v. Council of Unit Owners of The Gables on Tuckerman Condominium, et. al.)

Historically, the Maryland Condominium Act has generally been interpreted to require condominium associations to purchase and maintain “single entity” property insurance coverage. This coverage insures not only the general and limited common elements, but also extends within the interior of individual units to fixtures, appliances, walls, floor coverings, and cabinetry for like, kind, and quality to that conveyed by the developer to the original owner. Betterments and improvements made to the original condominium unit by the homeowner, such as draperies or wallpaper, are excluded under the condominium’s master insurance policy. Typically, a homeowner maintains a separate insurance policy, known as an HO-6 policy, to cover improvements or betterments made to the original condominium unit. A basic purpose of single entity coverage is to assure with a reasonable degree of certainty that sufficient property insurance is purchased and maintained to protect the financial integrity of the condominium association and unit owners.

The decision by the Maryland Court of Appeals seemed to be contrary to this standard industry interpretation and practice, and some condominiums opted to discontinue unit coverage. USI recommended that Maryland condominium associations not reduce or eliminate single entity coverage based upon the Court of Appeals decision.

The General Assembly addressed the questions raised by the Anderson decision by passing legislation that was signed by the Governor on May 19, 2009. The bill takes effect June 1, 2009.

The new law is intended to clarify the statutory language to once again require a condominium’s council of unit owners to repair or replace condominium units, exclusive of improvements or betterments installed by unit owners other than developers, in the event of a casualty loss causing damage or destruction to the condominium.

What insurance coverage is now required?

In the event of damage or destruction to the condominium, the association’s responsibility to repair or replace the common elements extends to condominium units, exclusive of improvements or betterments installed in the units by unit owners other than the developer. The condominium’s council of unit owners must also maintain property insurance on the common elements and units, exclusive of improvements and betterments installed in the units by unit owners other than the developer.

In other words, single entity coverage is required.

Community associations should contact their insurance agent to confirm that the association’s coverage is consistent with the new requirements.

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What does the new law say about the deductible?

The law requires a unit owner to pay the deductible of the condominium's master insurance policy, up to the statutory limit of \$5,000, if the cause of the damage originated from the owner's unit. Notice of a unit owner's responsibility for the property insurance deductible must be (1) included in a condominium sales contract (both the initial public offering statement and any resale contract); and (2) given annually in writing by the condominium's council of unit owners to each unit owner.

Community associations are required to develop an annual notification system regarding the yearly disclosure requirement listed in (2) above. Community associations should immediately inform owners of their possible responsibility for the master property insurance policy and the amount of such deductible. We also recommend that owners be advised to contact their personal insurance agent to ensure their HO-6 policy contains coverage for payment of both the master policy deductible and any betterments and improvements to the unit made by the owner.

Community associations must also ensure that resale certificates prepared after June 1, 2009 contain a statement as to the unit owner's liability for the master policy deductible and the amount of that deductible.

Where can I get more information?

If you have any questions or need further information, please contact Steve Dickerson (703-205-8788 or Steve.Dickerson@usi.biz) or Theresa Melson (703-205-8753 or Theresa.Melson@usi.biz).

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