

Unit Leaks Procedure:

There are many differences between owning a home on a private plot of land, compared to communal living (condominiums). There are certain benefits living where you have an association to make sure the property is maintained and well-kept. However, in community common elements there must be rules and established procedures that are shared for the neighbourly best interests.

Today, to help clear up any issues when it comes to owner unit leaks and the responsibility of the repairs that occur from them:

While living in a condominium there are certain areas of responsibility for both the association and the home owner as outlined in the state of Florida Statutes that regulate Condominium Associations (Statutes 718). With the statutes, there is a section that outlines what are "common elements" and what are "limited common elements":

According to 718.108, Florida Statutes, "Common elements" includes within its meaning the following:

- (a) The condominium property which is not included within the units.
- (b) Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common elements.
- (c) An easement of support in every portion of a unit which contributes to the support of the building.
- (d) The property and installations required for the furnishing of utilities and other services to more than one unit or to the common elements.
- (e) The declaration may designate other parts of the condominium property as common elements.

Other common elements, which are usable only by a single condominium owner, are usually called "**limited common elements**" which include: heating and air conditioning systems, hot water system, pipes, electrical systems, all light fixtures and security systems. Limited common elements are the responsibility of the individual unit owner in terms of maintenance, repairs and replacement.

2. Respond to the leak as soon as possible when notified. In the event the Association learns of a leak that is damaging or may cause damage to the Common Elements or other units, the Association MUST take action as soon as reasonably possible. If it is possible to notify the unit owner of the leak and allow some time for that Owner to make his or her repairs, then the association should allow the Unit Owner to do this. The amount of time for the Unit Owner to make the repair will vary on the repair needed. However that time will expire if water damage continues to expand and the Unit Owner has not taken sufficient action to fix the leak. In such cases, the Association can provide notice of the intended repairs to the unit owner.
3. Document and repair the leak and damage, assess the Unit Owner for the cost and make a claim with that Unit Owner's Insurance. In the event that the Unit Owner does not fix the leak within the reasonable amount of time and/or the Unit requires emergency repairs that does not allow time for Owner approval, the Association may enter

the Unit on an emergency basis to perform the repair. The association must document the damage and repairs including photographs, detailed invoices and reports with names of who performed the repairs which are to be used to make a claim against the Unit Owner's insurance and possibly the Association insurance if the damage exceeds the Unit Owner's deductible.

4. The Association will then assess the unit Owner for the cost of any repairs and/or submit the insurance claim. Once all repairs have been made and finalized, the association determines the cost of repairs and will assess the unit owner or submit a claim against the Unit Owner's insurance policy. It is recommended that these steps is handled by each individual Owner and submit their claim to their insurance agent and provide a claim number to the association to follow up with and be able to report and further information required. It is recommended that a copy of each owner's insurance policy is kept up to date and on file with the association to help with any emergencies that should occur. If a leak is reported and damaged is deemed responsible from your unit, the Association has the right to demand a copy of your policy to be able to make a claim on behalf of the community.

Responsibility:

This is a common question we receive when it comes to a leak that affects multiple units. As this is a communal living area, which single owners to each unit, it is good to make yourself aware of the responsibility of each party involved in a leak:

- When it is a leak coming from a single unit owner: pipe, toilet, washing machine which are not approved to be in a unit, water heater, AC, etc. If the leak is found to be not due to negligence, the responsibility is what follows:
 1. The association will repair the drywall and any damaged studs, insulation or electrical wiring in the walls and the account of the at-fault party can be back charged for the repairs if not paid for by the Owner at time of repair.
 2. The affected Owner will individually repair the personal property or limited common elements within their units, and damaged floors and the finishes and fixtures in the drywall (e.g. paint, texture or wall paper).
- When the leak is to be determined to be due to Owner Negligence, Intentional Conduct or Failure to Comply with Association Rules:
 1. *Fl. Stat. 718.111 (11) (j)*; the Owner will be responsible for repairing ALL portions of the damaged condominium property not covered by insurance proceeds. Further listed in the statute *718.111(11)(g)*; when a Owner is determined by the association to meet criteria listed in paragraph (j), the association may complete the repair work to the condominium property (excluding personal property) and charge the cost of the work to that Owner. If the Owner refuses to pay, the association may collect the cost as if it were an assessment.
 2. The Owners that sustained damage to their personal property have the option to pursue legal action against the negligent Owner.

We hope this information is useful to move forward when it comes to leaks and the proper procedure and policies involved in the community. As stated above in the document, please make sure your on-site office has a copy of your unit key and insurance policy to help expedite anything that might be needed when it comes to leaks and the repairs associated with it.