

Insurance Claims – What to Do?

What happens when the incident is reported to management?

- stop the leak! The first order of business is to stop whatever is causing damage
- call in mitigation team if needed
- assess the damage-reach out to surrounding units if it is possible they were damaged
- property manager report to Board about incident and damages

How and who determines if insurance is to be involved?

- if manager can, provide estimate of repair costs to the Board
- know your building deductible (can be found on the COI)
- Board** makes the decision on whether or not to make a claim
- considerations in making the decision are:
 - a) are size of the potential claim
 - b) number of claims filed in last three years
 - c) cause of the problem (is this an “insurable event”)
 - d) dollar value of any past claims
 - e) financial condition of the association
 - f) short- and long-term effects of filing a claim on insurance cost and potential changes in the deductible
 - g) insurance representative’s input

Who is in charge and what is EJF’s role?

- depends on the size of the claim-see summary below
- property manager’s role is to keep all parties informed and up-to-date on actions taken and who is responsible for what
- owners may be surprised to learn they are responsible-important for Board to understand the process
- the property manager coordinates the various parties to move the work along, keep the Board informed, ask for decisions

when needed from the Board or owners, tracks the costs, provides regular communication to all parties, and works closely with the adjuster to ensure costs are covered

-this type of work is outside the scope of the usual management activities and EJC does charge a fee for handling claims; in some cases the fee may be covered by insurance

How do we notify the insurance company?

-property manager calls in the claim and obtains a claim number

What is an adjuster?

-the adjuster is the insurance company representative who will decide what is covered and for what amounts

-the adjuster works for the insurance company!

-the adjuster will negotiate with vendors, property managers, Boards, and even owners on claim amounts

What is the clean-up and repair process?

-stop the issue causing damage

-Mitigation, remediation, and repair

a) mitigation: remove damaged materials immediately to prevent more damage or mold growth

b) remediation: may not always be required, but if needed do not skip this step; usually addressing mold (actual or preventive measures)

c) repairs: assess damage and determine level of needed repairs-simple or complicated?

-the steps do NOT require waiting for insurance proceeds and in most cases should not

-start the process immediately to limit displacement and show results

-clean up company will usually provide prices for remediation and repairs fairly quickly; Board can ask for additional bids but remember the important question is whether or not the insurance company thinks the estimates are fair

When does the money arrive?

-it is a process, but once the adjuster agrees to the contracts for mitigation, remediation, and repairs, a letter will be issued summarizing the loss and the insurance companies obligations

-the check is usually cut fairly quickly once that letter is issued

-in larger claims the steps may be elongated, and many separate payments will be issued as the claim moves along

Who pays the bills?

-the association pays the bills (EJF does this for you)

-in rare cases the insurance company will pay a vendor directly

Who decides who will do the work?

-the Board decides on contractors

-in some cases an owner will insist on using their own contractor; the association can issue a check for the insurance settlement for that unit, the owner signs a release, and the owner takes on the responsibility for the repairs

How are claims accounted for and tracked?

-on the monthly Statement of Revenue and Expenses we will add a line for insurance income in the Other income section and correspondingly a line in the Insurance/Tax section for insurance claims related expenses

-EJF recently created a spreadsheet for managers to use to track the actions and dollars related to claims; we are training managers on how to use this and this should be shared with the Board

What is depreciation and why do we care?

-when the adjuster arrives at final figures for repairs, the adjuster may subtract for depreciation (items are worth less now than when they were new)

-the depreciation is a reduction in the insurance company's coverage of the claim (i.e. they will pay less than the cost of the repairs)

-in most cases the depreciation is referred to as "recoverable depreciation"

-recoverable depreciation means just that—the Association can recover it by simply asking for it and supplying copies of paid invoices

-well-handled insurance claims should cost the association no more than the deductible and zero if the deductible is charged back to an owner

Should we hire consultants?

-for large claims the Board may consider hiring a representative to negotiate with the insurance company on issues and dollar amounts related to the claim

-the costs of such a service are usually a percentage of the total claim and are NOT covered by the insurance

When does the claim end?

-when all steps are complete (mitigation, remediation, and repairs

-when all insurance proceeds are collected and all bills paid

-when any recoverable depreciation has been collected

DC CONDO LAW

(A) Unit owner insurance. The adopted legislation requires all unit owners, to the extent reasonably available to purchase unit owner insurance of at least \$10,000 property insurance and at least \$300,00 general liability coverages. The Board may increase the minimum amounts at a meeting in has been provided to unit owners. A unit owner policy is commonly referred to as an HO-6 policy. Thus, Boards should first consult with their insurance agents to whether such amounts are reasonable or should be increased. Further, the board should adopt a rule on requiring unit owners to have individual unit coverage, including owners providing the board, via the association's managing agent, a copy of the owner's certificate of insurance. And if not provided, The board can, per the current Condominium Act after notice and an opportunity to be heard, impose a fine (even per day), on the unit owner for not providing such.

(B) Association Deductible. Unless the Condominium Instruments provide otherwise, if the cause of any damage originates from the common elements, the association's property insurance deductible shall be a common expense. Further, if your bylaws do not address who is responsible for the association's deductible payment if the cause of the damage originates from a unit, the owner of the unit shall be responsible for the association's deductible in an amount not to exceed \$5,000, which can be assessed against the owner's unit; PROVIDED, the association affords notice to the unit owners of this responsibility to pay such deductible "before" the damage is caused. Thus, it is a good idea that a Board consider at least adopting a Rule requiring unit owners (i) to have and HO-6 policy with appropriate insurance amounts, (ii) to provide management their certificates of insurance, and (iii) to be responsible for the association's deductible under certain circumstances, e.g., the cause of the damage originated in their respective unit.

MD Condo Law

An amendment to the Maryland Condominium Act, passed during the 2020 session of the Maryland General Assembly, will take effect October 1, 2020.

Currently, the association can charge up to \$5,000 of the master policy deductible to the unit owner where damage originated.

The new amendment will increase that cap to \$10,000 of the deductible. Any additional deductible amount remains a common expense.

The bill also clarifies that if the loss originates in a common element or outside of the unit – a storm, for example – that the association will be responsible for the deductible.

Helpful Tips –

1. Associations are still required to tell homeowners the amount of the deductible on the master policy on a yearly basis.
2. Unit owners should check their unit owner insurance policy to make sure the

master policy deductible will be paid if assessed.

As your insurance policies renew, check to see if a higher deductible is worthwhile for the association to consider.

The Insurance Claim Process

Executive Summary

Damage Less than the Association's Deductible

-if the damage to one unit or the common elements is from another unit and the repairs are less than the Association's insurance deductible, the unit causing the damage pays for repairs. The owner of the unit causing the damage should work directly with the owner(s) of the damaged unit to make arrangements for repairs. Payments are handled directly from the owner who caused the damage.

Damage Exceeds the Association's Deductible

--if the damage to one unit or the common elements is from another unit and the repairs are more than the Association's insurance deductible, the unit causing the damage pays the amount of the deductible and insurance covers the remainder of the costs for repairs. Usually in these cases the property manager will be involved and coordinate repairs (depending on your contract EJM may charge a fee to handle this additional work). The association will assess the owner causing the damage the amount of the deductible, and the owner will pay the association. The insurance company will issue a payment to the association (that is who the client is). The association will pay the vendors involved in clean up and repairs.

Assume 2 units A & B/ Assumes \$5,000 deductible under master policy

Damage is less than master policy deductible of \$5,000

- 1. Pipe break in unit A floods unit B and the damage is less than \$5,000.**

What happens next?

Answer: Unit owner A pays for Unit B's condominium damage.

Unit B's HO6 will cover Personal Property + Additional Living Expense if they have to vacate.

With smaller dollar amounts, this becomes a unit-to-unit issue. The two owners should work this out between themselves. In most cases property manager nor Board should be involved.

Damage is more than the \$5000 Master Policy Deductible

- 1. Pipe break in unit A floods Unit B and the damage is more than \$5,000. Answer: Unit owner A pays \$5,000 to Association for Association's deductible.**

Association's Master Policy covers the rest of the damage to the structure. Master Policy has no action against Unit A due to waiver of subrogation in every policy.

Unit B will need to go to their individual HO6 for damage to Personal Property + Additional Living Expense if they have to vacate.