

**L'ASSOCIATION DES PROPRIETAIRES  
(LE PARC ASSOCIATION)**

**WATER INTRUSION AND MOLD POLICY**

Pursuant to Section 4.3.2.1, of the Covenants, Conditions and Restrictions, the Association must provide for the operation, maintenance and management of the Common Area, and all its facilities, improvements, and landscaping, including any private driveways, private streets, parking facilities, exterior lighting and any drainage devices or facilities located in the Common Area. Section 3.4 provides that each owner shall be responsible for maintaining his unit, including the mechanical and other equipment and fixtures in the unit and its interior walls, ceilings, windows and doors.

Dispatch

Upon report of water intrusion that could be caused by the failure of an Association-maintained component, or which could lead to damage to the Association-maintained components, the Association should dispatch a contractor to investigate and document the water damage and the cause, and to take steps to prevent further damage. The reporting homeowner should be informed that if the damage is a result of a homeowner-maintained component or to the interior of the home, the homeowner might be responsible for the costs associated with any emergency dry-out or repairs made by the contractor. Homeowners should also report any leaks directly to their Homeowner's Insurance in case the leak turns out to be homeowner responsibility.

Damage Limited to Association-Maintained Components

If it is determined that the Association-maintained components have suffered water or mold damage (or will suffer such damage if action is not taken), the Association, using its own contractors, should take action to prevent further damage to the Association-maintained components and to repair any damage the Association-maintained components has suffered. If mold is present, it is recommended that the Association utilize an industrial hygienist or specialized contractor to perform the remediation and to provide a clearance certificate upon its completion.

Damage Limited to the Interiors

If it is determined that water or mold damage exists only within an individually-owned home, and that the conditions do not pose a risk to Association-maintained components, the determination as to whether the Association will be required to assume responsibility for the costs of repair will be dependent upon the cause of the damage and specific facts that may exist. An example of damage confined to the interior of the home would be damage to the drywall in interior walls (not load-bearing or perimeter walls) or damage to carpet or cabinets.

- The Board should rely upon its contractors to determine the cause; and
- Contractors should be asked to provide proper documentation (reports and/or photos/videos).

If it is determined that the damage was caused by (1) a Member, (2) the Member's guest, or (3) was caused by the failure of an owner-maintained component, the Association should do the following:

- Provide the Member with a notice (via posting, regular mail and/or certified mail) describing the source of the damage, and informing the Member that the condition must be remedied immediately to avoid additional damage;
- Consider a follow-up letter, or in the alternative, contact the Member a few days later to determine if action has been taken; and
- Evaluate the Association's right to obtain reimbursement for any costs incurred.

#### If Interior Damage was Caused by an Association-Maintained Component

If it is determined that the damage was caused by Association-maintained components the Association should determine if it is responsible for any interior damage. The Association does not guarantee that all Association-maintained components will always perform flawlessly and will not normally be responsible for interior damage. However, specific factors may give rise to Association liability. Such factors include, but are not limited to:

- A slow response time to the request for repair that resulted in increased damages.
- If failure of the component was foreseeable because of a pattern of this type of failure, knowledge that a previous repair was inadequate, inspections that revealed concerns about a component, or calls from homeowners that would suggest a problem exists.
- Other facts that would make this particular damage foreseeable.
- The Association's contractor provided an inadequate repair.

Absent, such factors which would give rise to Association liability, the homeowner will be responsible for the interior of the home pursuant to Civil Code section 1364(a). Further, if it is determined that the damage was caused by the homeowner, the homeowner is obligated to make interior repairs within his/her home.

By way of example, if a roof should leak and cause sudden damage to the interior of the home, the Association would be responsible to timely repair the roof. To the extent that the bearing walls are damaged, the Association would repair those walls, include drywall. The homeowner would be responsible for all other interior damage, such as paint, carpeting, furniture, cabinetry, etc. For this reason, all homeowners should obtain their own insurance.


Special Considerations for Mold

The existence of mold should be fully disclosed to all affected residents. If mold is found in the Association-maintained components, or is otherwise found to be the responsibility of the Association, the Association should proceed with the remediation of the conditions at the earliest possible time by an appropriate contractor and hygienist.

If it is determined that the existence of mold is the responsibility of the homeowner, the homeowner is obligated to remediate the mold within his/her home.

The Board of Directors duly adopts the foregoing resolution by written consent as of this 23<sup>rd</sup> day of May, 2012.

ATTEST:

  
Tonya Mertens - Secretary