

# **L'ASSOCIATION DES PROPRIATAIRES ("Le Parc")**

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## **WATER INTRUSION AND MOLD POLICY**

The Le Parc Homeowners Association ("**Association**") has implemented this Water Intrusion and Mold Policy ("**Policy**") to govern matters involving pipe leaks, slab leaks, and other instances of water intrusion affecting the condominium units ("**Units**") located throughout the Association's development. The Association's development is legally described as a condominium project. As such, the scope of the Association's maintenance and repair responsibilities primarily extend to the Common Area components located throughout the development. Each Owner is therefore generally responsible for maintaining and repairing all of the elements within his/her Unit, as well as maintaining any Exclusive Use Common Areas appurtenant thereto (*Civil Code* § 4775). That structure may be modified in situations where Common Area damage is sustained as a result of the willful or negligent acts of an Owner, his family, guests, or tenants. In such cases, payment of any costs incurred by the Association to repair the Common Area damage is the financial responsibility of the Owner (*Civil Code* § 5725(a)).

This Policy has been developed with reference to the pertinent maintenance, repair, and insurance requirements imposed upon the Association and the individual Owners as set forth in the Association's governing documents, including its recorded Declaration of Covenants, Conditions and Restrictions ("**CC&Rs**") and the California Civil Code.

### **WATER DAMAGE AND INSURANCE CLAIMS**

#### **A. Duty to Immediately Notify Association**

Upon discovery of a leaking component or appliance, or other instance of water intrusion into an Owner's Unit, the Owner or anyone occupying the Unit has the duty to **notify the Association immediately** by contacting the Association's management company. The Owner shall not hire his/her own vendor to investigate and/or make repairs to any Common Area components such as walls or ceilings. Owners who lease their Units are additionally responsible for ensuring that their tenants report the above-referenced issues to the Association and its management company immediately. Failure to immediately report water intrusion may result in the Unit Owner being held financially responsible for the resulting water damage.

#### **B. Commencement of Repairs & Responsibility Determination**

Upon notification of a perceived water intrusion/damage problem, the Association will dispatch a qualified contractor to investigate the problem, cause the immediate stoppage of the leak/water, and further determine whether the problem is emanating from a Common Area component or a component which the Owner is responsible to maintain/repair.

***Source from an Owner-maintained Item.*** The Owner shall be responsible to reimburse the Association for all costs incurred by the Association to contain the water intrusion and repair any Common Area damage, less any available insurance proceeds that may be issued to the Association by the Association's insurance carrier, under the following circumstances: if the source of the water intrusion is from an Owner-maintained item (i.e. interior plumbing fixture, appliance, etc.); and/or if the Common Area damage has been caused by the Owner or anyone visiting or residing within the Owner's Unit.

***Source from a Common Area Component.*** If the source of the water intrusion is from a Common Area component (i.e. a pipe located outside the legal boundaries of the Unit), the Association will repair the Common Area component. If an insurance claim is filed, any insurance proceeds which remain after the Common Area repairs have been performed may be issued to the Unit Owner so that the Unit Owner may repair any damage to the interior of the Unit. There is no guarantee that the remaining insurance proceeds,

if any, will be available to allow the Unit Owner to restore the Unit to its pre-loss condition because of application of the Association's deductible. For that reason, the Unit Owner must consult with his or her insurance professional to acquire sufficient levels of Unit Owners insurance. Most individual carriers will provide coverage for Unit repair expenses not covered by the Association's policy.

The Association will not repair or replace, or pay for the repair or replacement of, interior damage to any Unit improvements caused or aggravated by the Owner's (or his/her tenant's) failure to timely notify the Association and Management of the water intrusion in accordance with Paragraph A of this Policy.

### **C. Allocation of Insurance Responsibilities**

**Association Insurance.** Pursuant to Article 8, Section 8.2 of the CC&Rs, the Association purchases and carries fire and casualty insurance for the improvements within the Project. Such coverage does not extend to the personal property located within an individual Unit, nor does it extend to any Improvements or upgrades to any components within a Unit which have been installed by the Owner or prior Owners ("tenant's improvements").

**Owner Insurance.** Under Article 8, Section 8.3 of the CC&Rs, individual Owners must maintain property insurance against losses to their respective Units, including any personal property located within the Unit and any upgrades or Improvements within the Unit. Additionally, individual Owners must maintain liability insurance against any liability resulting from any injury or damage occurring within their respective Units. The Association's insurance policies may not provide coverage against any of the foregoing or the insurance loss proceeds under the Association's policies may not be sufficient to restore the Units to their pre-loss condition. The Association will generally not be financially responsible for the costs of repairing damage to personal property, upgrades and Improvements located within a Unit resulting from water intrusion, regardless of the source.

### **D. Insurance Claims and Insurance Deductible Policy**

If an Owner believes that he/she has a claim which may fall under the Association's insurance policy, the Owner must first tender that claim to the Association's Board of Directors for review. This may be performed by sending a written request to the Board via the Association's management. The Board will then review the claim as soon as practicable, and will advise the Owner whether the Association will be submitting the claim to the Association's insurance carrier. Additionally, the Owner must submit the claim to his/her own insurance carrier for damage to the personal property, upgrades and Improvements located within the Owner's Unit.

The Board will work with the Association's insurance carrier to assist with the payment of proper and legitimate claims. The Association's insurance policy deductible as of the effective date of this Policy is \$25,000.00 per occurrence (which is subject to modification from time to time). That amount was selected in order to provide a benefit to the Association's Members by virtue of a reduced premium amount (and thus, lower assessments), as well as the goal of reducing the likelihood of cancellation of the policy if numerous claims are processed under a lower deductible amount. No claim under the deductible amount will be covered by the Association's insurance carrier.

In the event of a covered claim under the Association's policy, the Board may hold the homeowner responsible for payment of the policy deductible and any repair costs which exceed the amount of the deductible under the following circumstances:

- To the extent that any insurance proceeds provides coverage for individual owned and/or maintained items;

- If the Board determines that the Owner or resident delayed reporting the claim or underlying problem to the Association such that the cost of the claim unreasonably increased over the amount that would have been necessary had the problem been timely reported;
- If the Board determines that the Owner is responsible for any or all of the damages for which a claim was tendered. Responsibility in that regard includes, but is not limited to, the Owner/resident was negligent or engaged in misconduct, the Owner/resident is legally responsible under the CC&Rs, and/or the Owner/resident is liable under California law; or
- If the Board determines that Common Area damage occurred due to the failure of an element or item that was within the Owner's maintenance responsibility regardless of the Owner's negligence in maintaining that element or item.

If an Owner or Owners is/are deemed responsible for the payment of the insurance deductible, the Board shall be entitled to delay execution of a contract for the Common Area and/or Unit repairs until the Owner acknowledges responsibility for the deductible.

The way in which such insurance proceeds will be utilized will be determined by the Board of Directors in its capacity as a trustee of the Association's insurance policies. In general, Association insurance proceeds will first be used to replace, repair, or restore Common Area elements. Remaining insurance proceeds, if any, will then be made available to the Owners as referenced herein.

#### **E. Owner Insurance Obligations & Relocation Costs**

The Association's insurance policy does not cover certain personal property, upgrades, and Improvements located within the Units. Each Owner must consult with his/her insurance professional to confirm that he/she is adequately insured for any damage that may occur within the interior of his/her Unit, including coverage for relocation expenses as may become necessary, and covered for personal property, personal liability, improvements/betterments, and any gaps in coverage caused by application of the Association's deductible. On an annual basis, it is good practice to inform your personal insurance agent of the presence of the Association's master policy deductible because many individual carriers will cover that deductible by endorsement.

Each Owner should also consult with his/her insurance professional to determine whether insurance should be purchased to cover any reimbursement assessment the Association may levy against the Owner to recover repair costs that were incurred or exacerbated by the negligent acts or omissions of the Owner or anyone for whom the Owner is responsible (i.e. family members, guests or tenants).

#### **F. Special Considerations for Mold**

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 at his or her expense.