



June 2022 Newsletter

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Be Prepared — Claims Adjusting is Changing

In the association claims world, we are starting to see a change in how reconstruction and mitigation invoices are approved from association insurance carriers. Mitigation is when a company is hired to clean up damage from a sudden loss, many of these losses being water related. Historically, insurance companies did not have issues with mitigation work and the costs associated with it. However, a trend we are seeing is not all mitigation costs are being covered by insurance carriers. Owners and/or the association are getting stuck with additional costs or are forced to negotiate with the contractor after work has been completed. We see carriers pushing back on these charges because contractors are not providing support documentation to justify the expense or additional charges.

Other common items not covered are duplicate work or unnecessary charges such as being related to COVID clean up and contamination. The risk for associations and owners is that mitigation work tends to get done before the insurance company is involved. This means the mitigation contractor will bill for work already done and there is no recourse to negotiate if the carrier doesn't agree to the contractor's invoice. This process creates an unpleasant situation between the association, owner, and contractor. When damage occurs to the unit and something is not covered by the association's policy, the owner is often held responsible for the additional charges. We always encourage an owner to find out if their HO6 policy covers these additional charges.

What can an owner or association do to help reduce the chances of this occurring? Make sure to use expert contractors who completely specialize in working with community associations. There are large mitigation companies that specialize in general mitigation but finding a company that specifically works with community associations is important because they understand community association insurance carriers. This can help reduce the risk of excess mitigation charges. Utilize resources like CAI to research and set up interviews with our industry's mitigation and reconstruction contractors. Also, owners, remember to notify your association Board or community manager immediately if a claim occurs in your unit.

Update of the Month: Plumbing Inspections and Scoping

Pipes get clogged, and sometimes it is discovered after damage has occurred. Depending on where the clog is located in the building, these claims can create a huge amount of damage. Signs of a possible back up could include toilets not flushing properly, water draining slowly in sinks, or bubbles around drains and toilets. If you have any signs of a backup, talk to your association, and consider calling a reputable plumber. Plumbers can use sewer scopes to inspect sewer and plumbing lines.

Community associations need to consider having lines inspected or implement a maintenance plan to prevent sewer clogs and backups, possibly on a more regular basis throughout the year.





What is subrogation? The right an insurance company has to go after another party who is liable in an insurance loss.

Who is subject to subrogation if they cause damage?

Contractors: Contractors can cause liability situations in several ways. They can perform faulty work that ultimately ends in damage to a unit(s) or the common area. Contractors can also cause damage while working. For example breaking a pipe, accidentally letting faucets run, or breaking sprinkler lines during inspections. Slip and fall accidents can also happen when contractor employees leave tools in common areas or do not mark hazards properly.

Manufacturers: When appliances or products fail before they are supposed to, sometimes the problem can be linked to a manufacturing defect. Manufacturers can be liable for the damage caused by their failed product.

REMEMBER: ALWAYS SAVE THE FAILED PART.

Renters/tenants: People who are renting or occupying a unit (includes extended family) can be held liable for damage in an insurable loss if there is negligence. Your tenant needs to have their own insurance policy (HO4) with a minimum liability requirement of \$300,000.

Owners: Owners cannot be subrogated by the association policy because they are owners of the association policy itself. All owners make up the association and the association's carrier can't sue an insured of their own policy. However, if a claim occurred and an owner did damage to another owner's property, the insurance carriers between the two owners can look to subrogate. When an insurance carrier is successful at subrogating after a liable party, it benefits the association by lowering their loss ratio which is one factor in rating premium.

An Owner's Burning Question



Question: A pipe burst in the common area wall and flooded my unit. I had to stay in a hotel. Is the association responsible for the lodging costs?

Answer: Whether the damage starts from your unit, a neighbor's unit, or a common element, the association is not responsible for the additional living expenses that occurred due to a claim. An owner or tenant in that unit must have enough loss of use (or loss of rents) coverage on their HO6 (owners) or HO4 (renters) policy to cover that expense. In some cases, if there is another owner at fault for a claim due to negligence, there may be a way to recover these fees through an owner's liability policy. It is highly recommended owners have sufficient coverage on their own policy for a worst-case scenario such as being dislocated from their home for 12-24 months.

Q&A



We Want Your Input!

Have a question or want to see a specific topic highlighted in next month's newsletter?

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