

## MONEY

### **Who pays for water leak, owner or condo board?**

#### **Associations do not have to provide monthly statements**

Daniel Vasquez

Does your association have to provide monthly statements to reflect your maintenance-fee payments and balance? When there is a water leak in your condominium, who should pay a professional to determine whether it is coming from an owner's pipe or one that is in a common area?

These are questions from Sun Sentinel readers, and we offer answers with the help of Margaret Villella of the South Florida law firm **Atkinson Diner Stone Mankuta & Ploucha**.

Jay bought a condominium in **Fort Lauderdale** late last year and thought closing fees covered maintenance fees for the balance of the year. While he has paid this year's monthly fees, he received a letter from his association claiming he was delinquent for missing some of last year's payments. The association bylaws do not specifically address whether monthly statements of HOA fees are available to owners, which may list how much payments are, whether the last payment was received and cashed, the balance of the community general fund, etc. He asks:

#### **Does an owner have a right to receive a monthly statement from his or her condo or HOA board even if a monthly statement is not normally provided?**

No. Florida does not require associations to send monthly statements unless the governing documents say the association is responsible to do so. But your condo or homeowners association is required to maintain official records for up to seven years that would reflect your payment history. And owners have a right to inspect such records after issuing a request to the board.

Associations must maintain records of each member's account, including the member's name, current address, due date and amount of each assessment or other charge, the date and amount of each payment and the balance due. The association must also keep itemized and detailed records of all receipts and expenditures, all tax returns, financial statements and reports and other financial records.

All records are available for members' inspection at reasonable times and places within 10 business days after the association's receipt of a written request for access. The records that Jay seeks to review should be contained within the documents required to be maintained by the association.

Debbie Kirby of Naples says there is a water leak that leaves stains and mold within her condo's bedroom closet. She is not sure whether the leak is from the pipes she is responsible for as an

owner or from a pipe within a common area of her building, which is the responsibility of the association. She asks:

**Who is responsible to pay a professional to locate the source of a leak, which must be done to determine who should pay to repair it?**

The answer may be different for each case. The clear answer is what should be done immediately: Contact your association and request an inspection and contact your insurance company to find out whether your policy will cover the cost of a professional inspection.

Unfortunately, knowing who is ultimately responsible to repair any water damage requires that the source be located. If a neighboring unit owner is not maintaining or repairing his own property in accordance with the association's governing documents and Florida statutes, then the unit owner likely will be responsible. If, however, the water is coming from a common area — such as a pool or water line that feeds multiple units — it may be the responsibility of the association.

Depending on the age of the condominium building, there also may be warranty issues involving the developer of the condominium and the association. What is certain, though, is that a unit owner has an obligation to protect his or her own property from damage, even if the damage is being caused by another owner.

Your homeowner's insurance company should be notified immediately. The terms of your policy will dictate whether there is coverage for your particular situation. Failure to notify your insurer promptly, however, could result in a denial of coverage later.

You should also notify your condominium association, advising that the water is coming from somewhere other than your unit with a request that the association immediately take steps to find and repair the leak. All notices should be in writing. Don't forget to take pictures and follow up as necessary.

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