

Preparing for Disaster Speeding Up the Loss Adjustment Process for Condos

An original © article by Public Adjuster Charles R. "Dick" Tutwiler, C.P.C.L.A.

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Two years have passed since Hurricane "Andrew," and thousands of South Florida condominium residents still have unresolved insurance claims. At issue are millions of dollars in damages to structures, roofs, and associated property on condominium grounds.

While most of the claims on residential losses and businesses already are settled, condominiums sit in waiting. Why is it such a long, tedious, process for condominium associations and their insurance companies?

Within the insurance adjusting profession, it is well-known that the most difficult insurance adjusting assignment is settling a condominium loss due to fire, windstorm or other perils. Why?

1. Access problems;
2. Divergence of opinion on what the loss is and the dollar amount of damages;
3. Absentee owners;
4. Lack of input or too much input from the various committees or boards;
5. Overlapping insurance policy issues between the individual unit owner's and the master association's policy.

In property insurance, each damaged item must be identified as repairable or not, measured, and given a cost estimate. This process requires line-by-line documentation down to the lineal and square feet with appropriate unit costs. Then the assessment must be agreed to by both the insurance company and the Association.

Most lay people simply do not understand the adjustment process and become upset with the seemingly endless delays, perceived, ridiculous demands, and other burdens they feel the adjusting process places on them. Then there is the continual changing of laws governing condominium insurable interest, policy forms, and endorsements--all of which impact the adjustment process -- Most condominiums forms have a built-in limit of \$25,000 for law and ordinance coverage. This is woefully inadequate.

After years of adjusting losses, both for insurance companies and as public adjusters representing condominium boards, we have seen recurring mistakes made by the condominium community. The most common: lack of proper preparation and planning before a loss. There are a few things associations can do.

1. Identify and Specify Loss Exposures. An association should consult with an expert to identify and specify the coverage the Association needs to protect itself against loss exposure. The expert should be familiar with adjusting terms, practices, and procedures; forms and endorsements available in the

industry, including all insurance policies available for a particular condominium situation; court cases, and positions taken by the Insurance Commissioner so that clear, defined coverage are identified and put into place.

2. Understand Common Exclusion. This exclusion, known in the industry as "The Law and Ordinance" exclusion is best explained by the following example: A high-rise condominium's balcony railings are damaged to 50 percent of their value. The railing also do not meet the current building code. In this case, the Building Department will not allow the railing to be repaired. Instead, it will require the whole system be replaced and brought to code compliance. The insurance company, based on their exclusion, will only pay for the direct damage to the rails. Therefore, the Association has to pay the difference between the repair and the replacement costs. In one case this alone amounted to more than \$500,000.

3. Beef Up Law and Ordinance Coverage. Most condominium forms have a built-in limit of \$25,000 for law and ordinance coverage. This is woefully inadequate. The \$25,000 is the total amount available and does not apply to each building or each issue raised in code problems.

4. Assign Competent Decision-Maker. An association needs to have in place a competent, knowledgeable person--or small committee--to deal with the responsibilities and decisions in the aftermath of a disaster. He or she must act as liaison between the insurance company and the board of directors. The person's responsibilities include understanding the insurance adjuster's position, knowing what needs to be temporarily repaired, and orchestrating the settlement process and negotiations. In addition, a string of other decisions must be made once a settlement is agreed upon.

It is important to deal with at least those issues before a major--and even not so major--disaster strikes. But there also are two common problems that occur after a disaster that lead to losses:

Speeding Up Loss Adjustment

1. The Association did not know ho to proceed, and thus did nothing. In some instances when decisions were actually made, they were improper or inadequate to satisfy the requirements under the insurance policy.

2. The Association relied on people who had separate and distinct interest and were not qualified in the insurance adjusting process. As a result, the individuals could not properly represent the Association in dealing with the many issues that arise with the insurance company and, later, contractors.

In the first case, Associations' boards did not understand how their claim should be filed, or that a loss requires affirmative, direct action on their part. They were unaware of their responsibility to document, verify, and present the loss and damages to their insurance company.

In the second case, the boards hired contractors, thinking the contractors would document, present, and negotiate the loss with their insurance adjuster.

An insurance policy requires both the insurance company and the Association to fulfill certain duties and responsibilities in order for the process to work. Associations must be prepared to be an activist in the event of a loss. Failing to have a plan.

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