

Belvista Community Association

**FULLY ADOPTED RESOLUTION AND RULE CHANGE RE:
RESPONSIBILITY FOR INSURANCE CLAIM DEDUCTIBLES
UNDER THE ASSOCIATION'S PACKAGE POLICY**

Resolution

WHEREAS, the Board of Directors of the Belvista Community Association is charged with the responsibility under the Association's governing documents, to manage and control the affairs of the Association; and

WHEREAS, there are, from time to time, claims are filed against the Association's property insurance policy; and

WHEREAS, the property insurance policy has a deductible that attaches to each valid claim; and

WHEREAS, the Association's governing documents currently do not specifically state when the deductible on any given claim is to be paid by the Association or by the individual owner filing the claim or affected by the damage resulting in the claim; and

WHEREAS, the Board of Directors desires to use its powers to adopt rules and regulations under Section 4.2.9 of the CC&Rs to determine and clarify those circumstances when the deductible under the insurance policy is to be paid by the Association and when it is to be paid by an individual owner; and

WHEREAS, Section 8.3 of the CC&Rs already requires in part:

Each Owner is responsible for insuring the Owner's personal property and all other property and Improvements in the Owner's Condominium for which the Association has not purchased insurance in accordance with Section 8.1. Each Owner shall obtain and keep in effect at all times a policy of insurance on form HO-6 or equivalent in at least the minimum amounts specified by Fannie Mae.

and individual homeowners may be able to use their individual homeowners' policies to cover or offset the amount of the deductible under the Association's policy; and

WHEREAS, Section 9.3 of the CC&Rs provides in part: "Except for any casualty or damage covered by insurance kept by the Association, restoration and repair of any damage to the interior of any individual Unit, including all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Unit so damaged."

NOW, THEREFORE, BE IT RESOLVED:

Rules

That it shall be the responsibility of the Owner of an individual Unit to pay the deductible on an insurance claim whenever any of the following apply:

- (1) The claim arose from or was caused by the active or passive negligence of the Owner or resident of the Unit;
- (2) The claim arose from or was caused by a building element that was within the maintenance responsibility of the individual owner or resident as provided in the Association's governing documents or law;
- (3) The claim arose or was caused by a building element that was within the exclusive care, custody or control of the individual Owner or resident;
- (4) The damage resulting in the claim was caused by the Owner or resident of the Unit, whether or not negligence exists;
- (5) The claim arose or was caused by some unknown or undetermined cause or source and the resulting damage primarily exists in only one Unit or separate interest;
- (6) The Owner or resident delayed reporting the claim or underlying problem such that the cost of the claim unreasonably increased over the amount that would have been necessary had the problem been timely reported; or
- (7) "Caused," as used herein, does not mean sole cause; it means the Board of Directors reasonably determined that the claimed loss or injury occurred in substantial part because of one or more of the circumstances described above.

BE IT FURTHER RESOLVED that in those cases where two or more Owners or residents are responsible for any of the circumstances listed above,

the responsibility for payment of the deductible shall be split among the responsible parties as determined by the Board of Directors.

BE IT FURTHER RESOLVED that, in all other cases, the Association shall be responsible for the payment of the insurance deductible.

BE IT FURTHER RESOLVED that the Board of Directors shall, in its sole discretion, make the determination of the party responsible for the payment of the insurance deductible.

BE IT FURTHER RESOLVED that in those situations where the individual Owner or resident is deemed responsible for the payment of the insurance deductible, the Board of Directors shall be entitled to delay execution of a contract for the repairs until the deductible has been paid by the Owner or resident if the repairs are to be performed by an Association contractor.

IT IS SO RESOLVED.

CERTIFICATE OF SECRETARY

The undersigned, the duly appointed Secretary of Belvista Community Association, certifies that the foregoing [Proposed] Resolution and Rule Change Re: Responsibility for Insurance Claim Deductibles Under the Association's Package Policy was duly adopted by the Board of Directors at a properly noticed and agendized open meeting of the Board of Directors following notice to the membership in accordance with Civil Code Section 4360 after consideration of any comments made by Association members in that regard. Said meeting was held on July 9, 2019, at Tumwater, California.

Dated: 7/9/19



Secretary
Belvista Community Association