

EAST BLUFF UNIT NO. 4 COMMUNITY ASSOCIATION

WATER INTRUSION, MOLD OR FUNGI INFESTATION, EMERGENCY PROCEDURES AND INSURANCE DEDUCTIBLE POLICY

(Effective December 1, 2018)

I) Introduction.

One of the benefits of condominium living is that the condominium association maintain certain components on the Owners' behalf. For example, the East Bluff Unit No. 4 Community Association ("Association") maintains common area landscaping and amenities, including the pool and recreation facilities. One common and sometimes confusing matter that challenges Boards and homeowners alike, is the issue of water intrusion and leaks. Specifically, how to address water intrusions and who is responsible to remediate, repair and pay for water damage.

All water intrusions constitute an emergency. All water intrusions must be quickly stopped and the Living Units dried out because the extent of the damage, as well as the ultimate cost of repair, largely depends upon the speed with which the problem is initially addressed and corrected. (Even a few hours can greatly impact the extent of any damage and the repair costs.) Therefore, as an Owner, it is important for you to be aware of and understand the Association's policies related to water intrusions and mold and/or fungi damage, as well as your responsibilities in this area.

This Water Intrusion, Mold or Fungi Infestation, Emergency Procedures and Insurance Deductible Policy ("Policy") is designed to protect the financial interests of all Owners and the Association. This Policy is the guide on how and what to do to address water intrusions and mold infestations as they arise within one or more of the Living Units and/or Common Area. Because individual Living Unit Owners can and will be held financially responsible for some or all of the costs involved in remediating and/or restoring affected Living Unit(s) and Common Area under the circumstances described below, **all Living Unit Owners and residents are strongly advised to read this Policy and to purchase and maintain adequate levels of liability and property damage insurance to protect their Living Unit and themselves. The Association's Governing Documents do not require the Association to insure your personal property. As described in this Policy, you might be financially responsible to remediate, restore, repair and replace your Living Unit even if the leak is not your fault. Failure to carry adequate insurance could cost you thousands of dollars. Be proactive and prepared!**

The Association recommends that every Owner take the Association's master insurance policy to their insurance carrier when obtaining homeowner's insurance, which will assist the insurance agent to account for any gaps in coverage.

II) Plumbing Maintenance and Repair Responsibility.

The CC&Rs provide that the Association is responsible for the maintenance and repair of Common Area and the Owners are responsible for the maintenance and repair of their Living Unit, including the maintenance and repair of plumbing, electrical and heating systems servicing the Living Unit (CC&Rs, Art. VI § 1).

III) *What is Water Intrusion? What Should I Look For? How to Help Prevent It.*

Water intrusion is an emergency that occurs when water or moisture enters the Common Area or your Living Unit, either through a pipe break or leak, slab leak, sewer line back-up, flooding from outside of the building, inadequate ventilation of a Living Unit or other source.¹ Signs of a potential water intrusion could include one or more of the following: you hear water trickling continually behind your wall, a floor that is hot to the touch in one concentrated area, yellowing or buckling of your roof, ceiling, or floor, or bubbling paint, among many other indications.

To help limit any water intrusion problems, Owners are expected to proactively perform (i) regular inspections of all Living Unit components (e.g., check for moisture at walls, windows, under sinks, around showers), and (ii) regular inspections and maintenance on all interior plumbing lines, plumbing fixtures (e.g., sinks, toilets, showers) and appliances so that they minimize the possibility of long term, undetected leaks and/or a failure becoming a flood. Where available, Owners and tenants are also expected to regularly open windows and/or use exhaust fans to help keep their Living Units well-ventilated to reduce moisture and the potential for mold growth. *Please remember, the Association is only responsible for repairing leaks in Common Area pipes which service more than one Living Unit, and Living Unit Owners are responsible for repairing leaks in pipes within their Living Unit and those that exclusively serve their Living Units.*

IV) *What to do When You See Water Intrusion or Mold/Fungi.*

Regardless of the location or cause, and immediately upon discovery, all Owners and residents are required to immediately contact management to report the issue. The 24-hour emergency number is 858-430-5700.

Owners and tenants are required to promptly repair all leaks in their Living Units. Failure to proactively perform regular inspections within the Living Unit, make timely repairs in the Living Unit and/or to immediately report water intrusion or mold growth may result in the Owner being held financially responsible for some or all of the costs incurred to correct the problem and restore the Living Unit to its prior condition, as well as the costs incurred to repair any impacted adjoining Living Units and/or Common Area. Any Owner who fails to inspect, perform preventative maintenance, allow Association timely access to inspect and remediate, or timely fix or report water or mold related problems to the Association shall be deemed negligent.

A. *When the Damage Originates from Common Area.*

- i. Resident(s) must call management immediately.
- ii. The Association will contact its plumber. If the leak is confirmed to be from a Common Area pipe which services more than one Living Unit, the Association's plumber will repair the water leak, at its cost.

¹ Not all incidents of water intrusion may be covered by insurance – for example, flooding - so be sure to do all you can to prevent whatever water intrusion you can by knowing the signs to catch an intrusion early and help minimize damage for all.

- iii. The Association will dry out the affected Common Areas and remediate any mold in the Common Areas to the extent necessary to obtain necessary clearances by qualified professionals when the mold can be attributed to the Common Area source, at its cost. The Association will also test for, remediate and obtain clearances for any asbestos in the damaged Common Area.
- iv. Owners shall be responsible to repair any interior Living Unit damage. Owners shall notify their insurance carriers of the damage/claim.

B. When the Damage Originates from Another Living Unit.

- i. Resident(s) must call management immediately.
- ii. The Association will contact its plumber to investigate and take steps to ensure that water will not spread to Common Areas or other Living Units. All potentially responsible parties will be notified. The responsible Owner must immediately repair the water leak. The affected Owners are responsible to notify his/her insurance carrier.
- iii. If a current leak appears to be coming from another Living Unit, and the resident of that Living Unit is not home or the Owner cannot be immediately reached by phone or email, the Association may use a locksmith to gain entry into the Living Unit to stop the leak. (CC&Rs, Art. II, § 4.)
- iv. The Association will dry out and repair the Common Area. The Association is not responsible to repair the Owner's leak, dry out the Living Unit(s), or repair the Living Unit(s). However, because of the potential for excessive damage if the situation is not immediately addressed by all affected Living Unit owners, the Association is prepared to act as outlined in this section.
- v. If a Living Unit Owner or his/her insurance carrier do not immediately accept responsibility for a water leak or moisture intrusion, the Association will enter the affected Living Unit(s), repair the leak, extract any water; dry out the Living Unit(s); remove damaged drywall; and remove cabinets, floor coverings, baseboards, appliances and other fixtures, and drywall as necessary to access any water and/or mold in the Common Area. The Association will also test for mold and asbestos and remediate any mold and/or asbestos from the Common Areas. Necessary clearances by qualified professionals will be obtained. The Association will not remediate mold in a Living Unit that did not originate from the leak.
- v. If an Owner fails to timely reimburse the Association for any costs it incurs in bringing said Owner or his or her Living Unit into compliance with the CC&Rs, the Association may impose a monetary penalty or levy a special assessment against that Owner to recover these costs, after noticed hearing.² Regardless of whether a Living Unit is the source of the leak or is merely damaged by a leak in an adjacent Living Unit, the Association does not guarantee or warranty the condition of the removed items or whether these items can be reinstalled or reused or whether they will have to be replaced. Nor will the Association be responsible for any damage to these items. The risk of loss or damage to these items shall remain with the Owner. (As stated above, Owners are encouraged to purchase their own insurance coverage to protect themselves against damage to these items.)

² Article III, Section 4 of the CC&Rs.

C. When the Damage Originates from a Living Unit and Only Affects that Living Unit.

- i. Resident(s) must call management immediately.
- ii. The Association's plumber will investigate and take steps to ensure that water will not spread to Common Areas or other Living Units. The responsibility for repairing the leak and repairing the Living Unit is the affected Owners. The Owner shall notify his/her insurance carrier.
- iii. If the responsible Owner or his/her insurance carrier do not immediately accept responsibility for such damage, the Association will initially pay to repair the water leak; dry out the Common Areas and affected Living Unit(s); and remove cabinets, floor coverings, baseboards, appliances and other fixtures and drywall as necessary to access the water and/or mold in the Common Area.
- iv. If an Owner fails to timely reimburse the Association for any costs it incurs in bringing said Owner or his or her Living Unit into compliance with the CC&Rs, the Association may impose a monetary penalty against that Owner to recover these costs, after noticed hearing.³

D. Requests for Investigations. Service calls to the Association for investigations of potential water intrusion/plumbing emergencies that do not result in property damage will not be billed to the reporting Living Unit Owner. The Board believes it is better for an Owner to be proactive and notify the Association of a potential issue than to wait for the issue to actually occur. Do not allow the fear of cost to deter you from contacting management or the Board immediately if you suspect water intrusion.

Information Applicable in All Water Intrusion Scenarios:

Responsibility for Work: When responsibility is uncertain, the Association will begin the work and will advise the Owner(s) within a reasonable time if and when the Association believes one or more of these Owners may have full or partial financial responsibility. Owners are expected to fully cooperate with the Association in resolving a problem. The Owner may be required to remove certain fixtures, cabinets, appliances, personal property and/or other components before the Association begins work or may require the Owner to release and absolve the Association from any liability or responsibility for these items should the Association remove them in order to remediate mold in the Common Areas or to repair the components causing the water intrusion.

Duty to Promptly Report and Allow Reasonable Access: If an Owner or resident fails to timely report water intrusion or mold or fails to allow timely and reasonable access to the Association for the purposes of remediation or repair, the Owner may be held financially responsible for all or part of the cost of remediation and repair costs, after noticed hearing.

Personal Property: The Association will not clean or replace any of the Owner/resident's personal property. The Owner/resident is solely responsible for cleaning or

³ Article III, Section 4 of the CC&Rs.

replacing any damaged furniture, clothing or other personal property within his/her Living Unit regardless of the person or entity responsible for the initial water intrusion.

The Owner is responsible for cleaning any personal property stored outside of his/her Living Unit before it is returned to the Living Unit. Personal property that has not been properly cleaned may contain mold spores that will reintroduce mold back into the Living Unit. If such reintroduction occurs, the Owner will be solely responsible for any and all additional remediation and restoration costs.

Utility Costs: The Owner will be responsible for the Living Unit's utility costs even if the contractor undertaking the remediation and restoration work uses these utilities.

Mold Clearance: Every Living Unit where mold is found must be "cleared" at the completion of the remediation process. This clearance will be performed by a qualified industrial hygienist who must certify that any remaining mold levels are within acceptable levels. Restoration of the Living Unit can only begin once this clearance has occurred.

Remaining in Living Unit During Work: It is the decision of the Owner/resident whether to remain in the Living Unit during the remediation and restoration work. The Association recommends that all residents relocate during the remediation and reconstruction process. Anyone contemplating remaining in the Living Unit during this time period should consult with their personal physician before making a final decision. Any resident that chooses to remain in the Living Unit does so at their own risk and the Association shall not be held liable for this decision.

Temporary Relocation Costs: The Association is not responsible for any relocation costs during the remediation and/or restoration period. (Civil Code section 4775(b).) If the Living Unit is occupied by a tenant, the landlord and tenant must resolve any issues associated with relocation between themselves. The Association does not assume any responsibility for the landlord's lost rent, temporary relocation costs and/or loss of use, if any. (Civil Code section 4775(b).) The Owner will be held ultimately responsible for any increased or unmitigated damage as a result of delay caused by Owner or Owner's occupants in allowing Association to perform work.

The Association will not act as the representative for the Owner/resident on the issue of cost recovery.

Please note, an Owner's failure to regularly inspect, maintain and repair the plumbing lines, valves, fixtures and appliances in his/her Living Unit may constitute negligence by that Living Unit Owner, and may make that Living Unit Owner financially liable for any and all damage to the Common Areas and/or other Living Units caused by that negligence.