

Water Intrusion Policy

CC&Rs 2.9 Notification and Liability of Association Regarding Water Intrusion

The Association's Water Intrusion Policy will determine liability in the case of water intrusion damage.

Every Member of the Association owns a Fee Simple private lot that is inclusive of the Member's dwelling footprint and usually some of the particular appurtenances which also are within the lot's boundary, such as an atrium, patio, porch, entry area, carport and garage¹. The parcel boundary extends up past the roof, and down past the footing into the ground. In general, Members are responsible for water damage that occurs within the parcel they own. That is their private property. Homeowners are responsible to maintain their property, clean up after water damage on their property, and repair systems in their control that caused the damage.

The Common Area is the land outside the private lot. Our Association holds fifteen large lots that make up our Common Area under terms of a ninety-nine-year land lease. The Lease with the Oceanside Land Company makes the Association responsible for maintaining systems, structures, and land in the Common Area. The Homeowner is not allowed to initiate work in or modify any portion of the common without permission in advance from the Architectural Committee and Board of Directors.

Most utilities and other systems, such as sewers, walkways and driveways run through the Common Area before they enter the Homeowner's private property. Exhibit C of our CC&Rs delineates the particular points in each system where responsibility changes from Association to the Homeowner, or the reverse of that. The listings below are taken from Exhibit C, which Homeowners have voted to accept as part of their Governing Documents.

Responsibilities of the Homeowner

According to Exhibit C, water intrusion damage due to a failure within private space in control of the Homeowner is Homeowner responsibility. More particularly Homeowner responsibility includes:

- Drains – bathtubs, showers, sinks, laundry, toilet
- Gutters & downspouts – components above ground
- Water damage in the dwelling due to a clogged downspout or leaves in the gutter
- Landscaping in enclosed yards/patio
- Storm drain within parcel boundary of the atrium
- Plumbing lines – interior/owner-modified exterior
- Plumbing lines – domestic water service in common area up to Association shut-off valve
- Roofs on dwelling units – including fascia board
- Sewer lines – interior dwelling to the homeowner/Association clean-out
- Windows and doors – glass, flashing/waterproofing,
- Water Heater

¹ Many garages and carports in our community are Association-maintained and therefore part of the common area.

Responsibilities of the Association

In general, water intrusion damage which arises from a failure of an Association-maintained system is a responsibility of the Association. Association responsibilities include:

- Existing drains and drainage systems throughout the common area (e.g. ditches, catch basins, and all below ground components)
- Cement block retaining walls²
- Curbs & road drains
- Landscaping and irrigation in the common area
- Plumbing lines outward from the homeowner/Association shut-off valve
- Sewer lines – beyond the homeowner’s clean-out to main
- Stucco repair & replacement

Water damage is covered by both homeowner and association insurance when the occurrence is sudden and unforeseen. Coverage for water intrusion is shared by both insurances for their portion of the damage. Homeowners pay any deductible on their policy and may also be required to pay the Association’s deductible. CC&Rs 12.8 (copied below) spells out who pays the Association’s deductible. Homeowners are advised to contact their agent to insure that their policy includes sufficient coverage under property coverage or loss assessment to provide for the association deductible (currently \$25,000). Your insurance agent is the best source of information regarding coverage for your home. Be sure to work closely with them to protect your home from this or other issues.

The CC&Rs provide the Board with flexibility to address water intrusion problems. That allows for this policy to be adjusted if a new class of problems or a change of conditions occurs.

CC&Rs 12.8 Insurance Deductible

The amount of the deductible portion of any insurance coverage maintained by the Association shall be established in the reasonable discretion of the Board. In the event a claim is made against the insurance policy maintained by the Association, and proceeds from that policy are used to repair damage, the responsibility for the deductible shall be as follows:

12.8.1 Damage Due to Act or Omission

If the damage results from the act or omission of the Owner, whether such act or omission is negligent or willful, then the Owner shall be responsible for the deductible. If the damage results from the act or omission of the Association, whether such act or omission is negligent or willful, then the Association shall be responsible for the deductible.

12.8.2 Damage from Owner-Maintained Item

If the damage results from the failure of a component that the Owner is obligated to maintain or the point of origin of the cause of the damage was located in the Owner’s Lot, and regardless of whether the damages result from the Owner’s negligence, such Owner shall be responsible to pay the

² Several homes are built into the hill by retaining the soil with concrete block walls. Issues of water intrusion from the dirt into the dwelling will be addressed on a case-by-case basis.

deductible.

12.8.3 Damage from Association-Maintained Item

If the damage results from an item, the maintenance of which is the responsibility of the Association, the Association shall be responsible for the deductible.

12.8.4 Damage from Multiple Sources

If the damage results from more than one source, the responsibility for the deductible shall be allocated based on the percentage of fault.