

Repairing Flood Damaged Buildings for Condominium Associations

The Master Flood Insurance Policy covers all building items (as originally installed) regardless of ownership or instructions found in the Master Deed or Bylaws (your documents). Flood insurance is a product of the National Flood Insurance Program. The coverage is the same no matter which insurance company issues the policy under contract with the National Flood Insurance Program. Coverage outside of the building's perimeter walls is very limited (compressors, heaters and the like). There is no coverage for docks, bulkheads, walkways, trees or shrubs, landscaping or removal of debris that is not in contact with the insured building (see policy for exact wording). To view the actual policy form, please visit our website (www.aiainsure.com) and click on the Residential Condominium Building Association Policy and go the sections for **property covered** and **property not covered** for building (not contents). Also, please see the pair and set clause (found in all insurance policies) as this may impact coverage for kitchen cabinets and the like (i.e., if the lower cabinets are damaged by flood waters but the upper cabinets are undamaged, only the lower ones are paid for even though you cannot match the new cabinets with the old ones).

Most, if not all, condominium documents contain language instructing the Board of Directors on how to handle the proceeds from insurance carried by the Association. We strongly suggest that the Board of Directors meet and review their responsibilities in their Bylaws. Failure to act in accordance with the directions found there can impose a liability on the Directors and Officers. If you are uncertain of your duties we suggest you seek legal advice. To the best of our ability, given the magnitude of this storm, we will make ourselves available to meet with or participate in a conference call with your board and/or legal counsel to discuss these issues.

We suggest that the Board of Directors consider hiring a General Contractor to perform all repairs required under your documents. It is more likely that by hiring a General Contractor, under a written contract that comports with the direction given in the documents, you will be in compliance with your duties.

If individual unit owners want to make upgrades or improvements as a result of flood damage, we recommend they have a separate contract with the builder of the association's choice. It is usually the responsibility of the association to rebuild each unit so that all other units are not affected by the improper rebuilding of one or more of the units. We suggest that the association not allow a unit owner to undertake repairs that are covered under the association's insurance policy; these repairs should be done at the direction of and under the control of the association.

Please note that this building coverage under the flood insurance policy may be different from losses covered under the traditional fire and hazard (wind) insurance policy. Most fire and hazard policies cover ONLY that property which is the responsibility of the association to insure as found in your association documents. The flood insurance policy covers all building items (as originally installed) and supercedes any direction give in your association documents. The flood policy can do this, as it is a Federal Program.