

BEFORE THE STORM *Condo Q&A*

## Frequently asked hurricane questions

**Question:** Between the unit owners and the association, whose insurance carrier is responsible for covering the cost of reconstruction after a hurricane?

**Answer:** A condominium is divided into two legal subsets, "units" and "common elements." Unit owners are responsible for maintaining the units. However, in the case of a casualty, they are not necessarily responsible for the cost of repairs.



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**State law mandates** that the association is responsible for maintaining adequate insurance for full "insurable value" or "replacement costs" to cover all of the improvements that were part of the original

structure, other than certain exceptions contained within the units.

The exceptions, which are the responsibility of the unit owners, include all upgrades, and floor, wall and ceiling coverings, electrical fixtures, appliances, air conditioners or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments (curtains, drapes, blinds, hardware and similar window treatment components) within the unit, and the air-conditioning compressor that services only the unit, whether or not located within the unit boundary.

### Repairing storm damage

**Q. What steps should a condo board or association take to fix storm damage?**

**A. Recovery is often affected by the reality** that upward of 50 percent of the unit owners do not carry mandated coverage, and associations often carry inadequate coverage.

**It is critical that in the aftermath of the storms** that the unit owners and the boards not compound their problems by acting hastily, and in an imprudent manner.

**The first steps** are drying in (placing tarps over openings in the roof and boards over blown-out doors and windows), drying out (removing wet carpet and wall boards in order to retard the growth of mold), cleaning up and securing the property.

**Prior to starting the rebuilding process, fol-**

### More information

**For a detailed guide** on community association hurricane planning and recovery, go to Gary Poliakoff's Web site: [www.hurricane-recovery.com](http://www.hurricane-recovery.com).

**For past column questions** on hurricanes and condos, see [Storm2006.com/Poliakoff](http://Storm2006.com/Poliakoff).

### low the five phases of reconstruction:

- Project planning
- Construction bidding
- Contract negotiations
- Construction/rehabilitation
- Project completion.

**Make sure each step** of the process is guided by Florida-licensed professionals.

### Special assessments

**Q. Is the board obligated to file a lien against the non-paying homeowners and force them to pay a special assessment to cover losses from hurricane damage not covered by insurance?**

**A. Assessments are the lifeblood of common interest ownership housing communities.** Assessments provide the necessary revenues to ensure that the common elements, and/or common areas, and the association property, are maintained at a high level

**A board of directors** is obligated to actively pursue deadbeats who fail to pay their share of the common expenses, and/or necessary special assessments. If the board lacks the willingness to take such action, they should be removed and replaced by individuals willing to fulfill the offices to which they have been elected.

### Installing shutters

**Q. Our board of directors plan to change our documents to require installation of shutters by all owners. Can the board of administration force owners, who purchased their units under the old provisions, to install shutters now?**

**A. The Condominium Act authorizes the association,** upon approval of a majority of the unit owners, to make the installation of hurricane shutters mandatory for everyone. The act further provides that unit owners who have already installed code compliant shutters are to

receive a credit against their share of the assessments for money already spent in the installation of their shutters.

### Replaining drywall

**Q. Who is responsible for the cost of repair or replacement of the drywall? While the association did remove most carpeting and drywall from the units, it charged the unit owners for doing this. Is that legal?**

**A. The association's insurance must cover the cost of repair or replacement of the drywall.** The unit owner's policy covers the carpet. The removal and replacement of the drywall should be covered by insurance proceeds received from the association's carrier, and the carpet from the unit owner's policy. This, of course, assumes there are adequate proceeds from the insurance. Any shortfall is generally the responsibility of the unit owner suffering the loss.

### What about 'snowbirds'?

**Q. The board of a homeowners association adopted rules and regulations governing the installation of hurricane shutters. The rules say the shutters cannot be closed until the National Hurricane Center issues a 'hurricane watch' for our area. We feel that this rule discriminates against 'snowbirds,' and the enforcement of this rule under the covenants is totally out of line.**

**A. On this point I must respectfully disagree with you.** While I can appreciate the fact that such a rule will necessitate having the snowbirds make provisions with someone locally to close their shutters when a storm approaches, that is a small cost compared with the negative aesthetic impact that a boarded-up community has on full-time residents, their guests and other visitors to the community.

**Each year, I receive dozens of letters** from residents of communities, where the board allows snowbirds to close their shutters when they depart, complaining about the depressing feeling they have driving around a boarded-up community.

*Gary Poliakoff's column appears weekly in the Accent section of The Palm Beach Post. He is a founding principal of Becker & Poliakoff, P.A., in Fort Lauderdale and past chairman of the Florida Condominium Advisory Board. Write to him c/o The Palm Beach Post, P.O. Box 24700, West Palm Beach, FL 33416-4700.*