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Condominium Clients and Managers

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Re: Important Maryland Case Regarding Condominium Insurance

On April 15, 2008, the Maryland Court of Appeals decided an important case governing the nature of master insurance coverage for condominiums. This is the first time that the State's highest Court has interpreted the Maryland Condominium Act's insurance provisions.

The Court held that, "the Maryland Condominium Act does not require a condominium association to repair or replace property of an owner of an individual condominium unit after a casualty loss." It determined that the clear provisions of Section 11-108.1 override apparently inconsistent provision in Section 11-114 regarding insurance. Section 11-108.1 provides that:

Except to the extent otherwise provided by the declaration or bylaws, the council of unit owners is responsible for the maintenance, repair, and replacement of the common elements, and each unit owner is responsible for the maintenance, repair, and replacement of his unit.

After reviewing the legislative history of the Maryland Condominium Act and the Uniform Condominium Act, the Court determined that the legislature did not intend to limit the provisions of Section 11-108.1 or it would have stated so. The Court stated that the master insurance policies are intended to cover damage only to those portions of the condominium owned in common with other unit owners and the structure of the building.

The case, *Anderson v. Council of Unit Owners of the Gables on Tuckerman Condominium*, was a consolidation of two cases with similar facts. In one case, a water leak caused damage to a townhouse condominium unit in Montgomery County and in the other, a grease fire caused damage to a Prince George's County townhouse unit. In both cases, the cause of the damage originated in a unit and caused damage only to that unit. In both cases, the cost of the damage was under the deductible amount of the master insurance policy.

As a result of the decision, we recommend that Condominium Associations contact their insurance carriers and agents to confirm the nature of coverage provided by their master policies and recommend that all unit owners be advised to obtain individual condominium insurance policies to cover their units. Please let us know if you have any questions or if we can be of further assistance.