

## Common Interest Ownership Act and Connecticut Condominium Master Insurance

By Rich Bouvier

### 2010 Common Interest Issue 8

#### Written Maintenance Standards?

Welcome to October! Now that the revision to the Common Interest Ownership Act (CIOA) took effect back on July 1st, many associations are exploring the new procedures and opportunities that the revisions created.

In my previous article, I delved into the CIOA changes specific to the master insurance policy and how it will now cover improvements and betterments unless the association decides to "opt out" as well as the procedure to do so properly. To date, I have found that most associations have adopted the "All In" approach. I have had only one association create the list of standard unit specifications to successfully keep their master insurance obligation to "Original Specifications."

Another area to the CIOA revisions that is significant concerns the change to the "Unit Owner Liability for the Costs of Repair and Replacements," more specifically Section 47-257(e). Let's start by reading the new language:

(e) If any common expense is caused by the willful misconduct, **failure to comply with a written maintenance standard promulgated by the association** or gross negligence of any unit owner or tenant or a guest or invitee of a unit owner or tenant, the association may, after notice and hearing, assess the portion of that common expense in excess of any insurance proceeds received by the association under its insurance policy, whether that portion results from the application of a deductible or otherwise, exclusively against [his unit] that owner's unit.

From afar, this sounds like a negative and costly program, but I see it as a formal way for an association to address areas of common insurance claims and create a procedure to mitigate future claims.

Common examples of such maintenance standards may include, but are not limited to:

1. Hot water tank replacement program,;
2. Washing machine hose replacement program;
3. Battery replacement program for smoke and carbon monoxide detectors,;
4. Chimney inspections and cleaning if required, oil burner inspection and cleaning if required;
5. Dryer vent upgrade to metal hoses; and
6. Maintaining heat at 55 degrees or higher during winter months.

Each of the maintenance items mentioned above address common causes of condominium insurance claims.

Hot water tanks rarely show their age or condition on their exterior. By chance, the date of installation may be written on the tank by a conscientious plumber, but unfortunately that is not guaranteed. A reputable licensed plumber should be able to take an inventory of an association's hot water tanks on a per unit basis along with the brand and serial numbers. With that information, the plumber may be able to get a date of manufacture. As a rule of thumb, hot water tanks should be replaced every 8-10 years. Like I mentioned before, from the outside, they all look just fine, but the internal tanks could be corroded and close to failing without showing any external signs.

Washing machine hoses are inexpensive, but as with everything there are "better" ones. With the help of a reputable plumber, a swap out program can be initiated for the entire association. Chances are this would present an opportunity for a group discount for the purchasing and installation of high quality, braided steel, "burst resistant" hoses.

Smoke detectors save lives and property. That's a bold statement, but it's true. A properly functioning smoke detector is an insurance agent's best friend. Aside from making sure the battery (or back up battery) is alive and well, the National Fire Protection Association (NFPA) strongly recommends the replacement of home smoke detectors every 10 years. Each manufacturer may have a different expected useful life, but smoke detectors can become less sensitive over time and can be a trap for dust, bugs and other foreign objects that can impair their functionality.

Chimney inspections are useful. Mandatory cleanings may be wasteful. I'm certainly an advocate for an annual chimney inspection by a licensed contractor with a report as to which ones require a cleaning. It's the wood burning fire places and stoves that concern me the most. Creosote build up can lead to a chimney fire. Again, a group discount may be available and you may discover that only a small percentage of the stoves or fireplaces are actually being used. Rather than spending the money for a mandatory cleaning, go for the annual inspection and take action on the dirty chimneys that require attention.

The inspection and cleaning of an oil-fired furnace is our best attempt at preventing a "puff back" claim. A "puff back" occurs when there is a mechanical failure within the furnace and smoke and soot is puffed back into a unit through the ducts. These claims are dirty and very expensive. A significant puff back could result in the need to remove everything from the unit for a thorough cleaning, interior paint work and professional cleaning for unit owner contents such as clothing and furniture. Performing routine preventative maintenance could detect a malfunctioning burner and could possibly prevent a significant claim.

Many dryer vent hoses are made of white vinyl with an internal metal coil to help them maintain their shape. The Association of Home Appliance Manufacturers (AHAM) recommends the usage of rigid metal ducting or aluminum flexible hosing. The reason is simple – to prevent lint build up and to reduce back pressure. Like most mechanical devices, if there is tremendous back pressure and the dryer cannot ventilate properly, it will overheat. Many dryers have sensors that will turn the unit off, but if this sensor failed, the possibility of a home fire truly exists. This is another inexpensive and easy fix. Once the hoses are upgraded, an annual inspection and cleaning by a licensed contractor is recommended.

The last maintenance standard that I feel is absolutely worth mentioning is maintaining unit heat at 55 degrees or greater during the winter months. This is to prevent burst pipe claims due to freezing. As an insurance agent in New England, I am just about guaranteed to have

at least one burst pipe claim every year. If you plan to leave your unit for any extended period of time and you wish to reduce your heating bill, please set the thermostat(s) to 55 degrees, no less. This alone cannot guarantee the prevention of a burst pipe claim, but it will sure help. This same concept applies to vacant units too. With the winter months fast approaching, please, keep your heat **on**, second, keep it **up**!

Now that we have a few examples of common maintenance standards, how do you create and implement a program that works for your association? A discussion with your association's attorney will quickly determine how and where these standards can become a formal part of your association's governing documents. In fairness to unit owners, create a realistic timeframe in which they can become "compliant" and develop a plan to keep this maintenance program ongoing year after year and board after board. The bottom line is to spend a little now to save a lot later.

*Rich Bouvier works with the insurance agency of Bouvier, Beckwith & Lennox, Inc. He currently serves as Secretary of the CAI-CT Board of Directors and Chairs the Golf Committee. Rich is also a frequent speaker at CAI-CT education seminars.*