

## RE: Riverview Association

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From: Edwards, Kevin (kedwards@beckerlawyers.com)

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Margaret,

How many units suffered damage? Is there any other damage to the common elements? When there is damage from a hurricane (a "casualty" or insurable event) you don't look at the regular maintenance responsibilities in the Declaration. Rather, you look to the Condominium Act ("Act"), Section 718.111(11), Florida Statutes. The Act provides that whomever is responsible to insure an item against casualty is the party that must pay to repair or replace it.

Section 718.111 (11) (f) 3 of the Act describes those items that the unit owners are required to insure ("**Unit Owner List**") and thus pay to repair/replace when damaged by a casualty. These items are: (i) all personal property and unit owner installed improvements within the unit or limited common elements; (ii) floor, wall, and ceiling coverings; (iii) electrical fixtures; (iv) appliances; (v) water heaters; (vi) water filters; (vii) built-in cabinets and countertops; and (viii) window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the unit and serve only such unit. The foregoing items cannot be insured by the Association and must be covered in any homeowner's policy (such as an "HO-6" policy).

The Association must have insurance to cover anything that is not included on the Unit Owner List. This includes drywall (wherever located); windows; doors; all common elements; all portions of the condominium property as originally installed by the developer (such as sinks, toilets, mirrors, bath tubs, showers, balcony/lanai, carports, garages, etc.); and all alterations or improvements to the common elements that the Association has made or makes. When there are casualty-related damages to these items and the damage amount exceeds the Association's insurance deductible, the Board must file a claim with its property insurance carrier. Any shortfall in insurance (e.g. where insurance does not pay the entire claim or where the claim is below the deductible) is shared by all of the unit owners as a common expense.

Thus, the Association must repair damage to the windows and ceiling drywall. If the amount of damage exceeds the insurance deductible, the Association must file a claim. Whatever is not covered by insurance is shared by all of the owners as a common expense.

Again, please let me know if the Board needs assistance in filing any damage claim. Our firm is affiliated with a public adjusting company, Association Adjusting, and we are able to quickly get you in touch with them to start the repair and claim process.

Regards,

-Kevin