

Policy Resolution No. 04-1
Water's Edge, A Condominium
Unit Owners Association
Responsibility for Insurance Deductible
Revised March 1, 2004

WHEREAS, Article III, Section 5 of the Bylaws vests the Board of Directors with all of the powers and duties necessary for the administration of the affairs of the Association; and,

WHEREAS, Article VII, Section 2 of the By-Laws requires the Board of Directors to obtain and maintain a physical damage insurance policy for the condominium; and,

WHEREAS, in order to obtain and maintain a physical damage insurance policy at a reasonable, affordable price to the Association, the Board has obtained and maintained a policy under which the Association agrees to excuse the insurance carrier from paying for the first dollar amounts of damage or loss on each claim under the policy for loss or damage; and,

WHEREAS, this provision, currently in the amount of \$1,000.00, is commonly known as the "insurance deductible"; and,

WHEREAS, the Board of Directors has determined that it is in the best interest of the Association and its members to establish a policy for determining under what circumstances the Association or the individual unit owner shall pay for property losses in amounts up to that portion of each loss that is equal to the then the insurance deductible; and,

WHEREAS, Section 55-79.81 (C) of the Virginia Condominium Act has been amended as of July 1, 2003 to provide that, except to the extent that a condominium association's governing documents provide otherwise, a unit owner shall pay any insurance deductible under the association's master casualty insurance policy with respect to any damage or destruction caused by a condition originating in or through the unit owner's unit or any component thereof, without regard to whether the unit Owner was negligent; and,

WHEREAS, in light of the foregoing amendment to the Virginia Condominium Act, Policy Resolution No. 95-1 (Insurance Deductible) should be amended to revise its treatment of responsibility for property losses in amounts up to that portion of each loss that is equal to the then the insurance deductible.

NOW, THEREFORE: the Board of Directors hereby adopts the following policy with respect to financial responsibility for the insurance deductible loss:

1. In the absence of negligence by an owner, occupant, guest or other party, if a casualty loss to the common elements is caused by a condition originating within the General Common elements or Limited Common Elements (hereinafter "Common Elements"), the Association shall be financially responsible for the insurance deductible.
2. In the absence of negligence by an Owner, occupant, guest or other party, if a casualty loss to a unit is caused by a condition originating within the Common Elements, the Association shall be financially responsible for the insurance deductible, except to the extent that the condominium instruments or State law provides otherwise. In the event the Association is not responsible for the insurance deductible under the previous sentence, the owner of the unit damaged shall be financially responsible for the insurance deductible.

3. If a casualty loss to the Common Elements or a unit is caused by a condition originating in or through a unit, the unit owner shall be financially responsible for the insurance deductible, without regard to whether the unit owner was negligent.
4. The Board of Directors may specially assess any owner to recover any insurance deductible if the Board determines an owner is financially responsible for the insurance deductible under this Resolution or the Condominium Act. This special assessment shall be collectible pursuant to the provisions of the By-Laws relative to assessments.
5. All of the above provisions apply to determine financial responsibility for costs of repair when the cost to repair casualty loss is less than the amount of the insurance deductible.
6. If a casualty loss is caused by a condition originating in or through a unit, insurance proceeds shall be paid in the following order: (i) to the Association for damages to the Common Elements; (ii) to the owners of other units that suffered insured losses as a result of the condition that originates from another unit, and (iii) to the owner of the unit in which the condition originated. Unit owners shall be responsible for making all repairs to their units unless the condominium instruments provide otherwise. If the insurance proceeds are insufficient, the unit owners who suffered losses must seek recovery of the deductible from the owner of the unit in which the condition causing the loss originated.
7. If a casualty loss is less than the insurance deductible, the Association shall not file an insurance claim with respect to the loss and the owner of the damaged unit shall be financially responsible for the necessary repairs, unless the provisions of Paragraph 2 or 3, above, apply.
8. Policy Resolution No. 95-1 (Insurance Deductible) is hereby rescinded in its entirety. [Or, "The foregoing shall amend the provisions of Policy Resolution No. 95-1 (Insurance Deductible) and, except as hereby amended, Policy Resolution No. 95-1 is hereby ratified and republished."]

The foregoing Resolution was duly adopted by the Board of Directors on

March 1, 2004.

VOTE:

Cindy Manganello
Cindy Manganello, President

Yes No Abstain Absent

Russell Brown
Russell Brown, Vice-President

Yes No Abstain Absent

Bill Hillegeist
Bill Hillegeist, Treasurer

Yes No Abstain Absent

Kris Jackson
Kris Jackson, Director

Yes No Abstain Absent