



Boards Need to Crack Down on Homeowner's Insurance

Tom Soter in Legal/Financial August 8, 2019

On a sunny afternoon in April, a six-alarm fire ravaged a six-story condominium in Brooklyn's Sunset Park neighborhood, causing the roof to collapse. When the flames were finally doused, it came to light that a significant number of the unit-owners had little or no homeowner's insurance.

"Boards need to stop taking a laissez-faire attitude toward homeowner's insurance," says Theresa Racht, the condominium's attorney. "Every building has had an issue where some owner has caused damage somewhere and they have had no insurance to pay the costs. It gets worse when the entire building is damaged. It's very clear how under-insured people are. There is no law requiring that people have insurance, but the governing documents should require it. Boards need to get more aggressive in this area." That includes requiring all residents to carry a level of insurance set by the board, having the managing agent check everyone's insurance at the end of the year, and penalizing co-op shareholders and condo unit-owners if they let their policies lapse. In some cases, the board may take out a policy for a resident and charge it back to him or her. Failure to pay can ultimately lead a co-op shareholder to default or a condo owner to lose services.

To do all this, Racht points out, a co-op board must amend its proprietary lease and a condo its bylaws. She suggests that boards hold special meetings – possibly attended by insurance professionals – to explain the issues and answer questions. "Several people told me that these meetings really woke them up to the need to evaluate the level of their insurance every year," Racht notes.

She has created a primer that boards can distribute to the shareholders or unit-owners, as a way to drive home the need for them to keep a homeowner's insurance policy up to date:

1. What are the coverage limits? The policy should cover any improvements you have made to your home. Use real-world examples. For example, what would it cost if your entire apartment was flooded and you had to replace all your floors and carpeting?
2. Should you have general liability insurance? Yes, you should have a basic policy of at least \$1 million and make sure you will be defended if you are sued.
3. What is a "loss-assessment rider" and why do you need one? This covers the rare instance when you have to pay an assessment to the co-op or condo in order to rebuild or repair a common area because of damage that exceeds insurance coverage. Since the premium is very low, get the highest amount you can.

4. What sort of coverage should I have for my personal property? Make sure you have coverage for all your furniture, appliances, furnishings, and personal possessions.
5. What happens if there is a fire or flood and my unit becomes uninhabitable? This is why you should have a relocation allowance. You will still be obligated every month to pay your co-op maintenance and your condo real estate taxes and common charges – while paying rent somewhere else during repairs to your apartment. This allowance will lighten the burden.

[N.B. (from ARC): In many casualty situations the governing documents of the condo/co-op association will dictate that common area or maintenance fees are equitably abated proportionate to the amount of the apartment which is rendered uninhabitable.]

6. What about removal of debris? You will be responsible for paying for all demolition in your unit and all debris removal and disposal after a catastrophic event.

[N.B. (from ARC): This may or may not be the case. The separation of responsibility to the repair following a casualty is important to understand. Often, there will be shared responsibility between the unit owner and building.]

7. What about the costs for items in storage? You may need to store your personal possessions while repairs are made. Make sure your policy covers all moving and storage costs.
8. Who is your carrier? Not all insurance carriers are equal. Discuss claim response and payment process with your insurance broker for their proposed carrier(s). Get quotes from different companies.