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Number 3

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This is issued under section 62.6 of the Condominium Property Regulation, which allows for the Director to provide advisory opinions and interpretation with respect to insurance under section 47 of the Condominium Property Act and under the Regulation.

INSURANCE DEDUCTIBLE CLARIFICATIONS

Issue

Stakeholders have asked whether the Condominium Property Regulation requires that a condominium corporation file an insurance claim in order to charge back the cost of an insurance deductible to the person that caused the damage or the unit from which the damage originated. Some corporations are concerned that filing an insurance claim can increase future premiums so much that filing a claim is not worth it.

Relevant sections of the legislation

CONDOMINIUM PROPERTY REGULATION AR 168/2000

62.4(1) A corporation may pay an insurance deductible in an insurance claim and recover the amount of the deductible from an owner in accordance with this section.

(2) Subject to subsections (3) and (5), an owner, on demand by the corporation, is absolutely liable to the corporation for the amount of the deductible in the corporation's insurance claim for damage that originates in or from the owner's unit or an exclusive possession area assigned to the owner.

Discussion

Section 62.4 allows for a corporation to require an owner responsible for damage to pay for the cost of a deductible, sometimes referred to as a "chargeback." It does not state whether a corporation can charge back the costs of a deductible if an insurance claim has not filed.

With any insured loss, a condominium corporation always has the choice in whether to file an insurance claim or not. In some cases, a corporation may choose not to file a claim and instead pay for the costs of damage itself. This may be the case when the damage costs are less than the amount of the deductible or if the corporation finds that filing an insurance claim can increase their premiums costs, and that this could cost more than paying for the repairs.

Corporations are advised to work with their insurance provider, insurance brokers, legal counsel, or other financial services when making insurance decisions in order to protect the financial integrity of the corporation and the interests of owners.

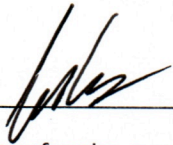
If a corporation chooses not to file an insurance claim, it could still issue a limited chargeback *if the corporation's bylaws allow for that action*. In this case, a limited chargeback means either:

- if the costs of damage were higher than the deductible – charging back only the cost of what the deductible would have been, or
- if the costs of damage were lower than the deductible – charging back the costs of damage.

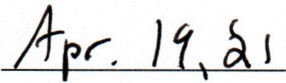
Again, corporations are advised to work with legal counsel and their insurance provider to ensure that their bylaws are up to date and that they are following their bylaws.

This bulletin does not represent legal advice and is not binding. It is for informational purposes should not be used in any insurance claim.

Issue of this bulletin is authorized by the Director for the purposes of the *Condominium Property Act*.



Director for the purposes of the
Condominium Property Act



Date