

Sunday, October 14, 2012
Leaking Roof for a Decade

Just keep plenty of empty tin cans to catch the water leaking into your condominium. This is what one homeowner had to do for seven years to mitigate water damage in her residence due to a leaking roof in the condo complex. Really! This should have been one of those problems resolved via the property management company (PMC) at the direction of the HOA Board. The residents pay HOA fees to address such problems. The HOA has insurance, paid for by the homeowners, to fix such things as a leak in the roof. Well, the PMC on several occasions inspected the roof and declared it is good condition and that the leak in the residence was due to something else within the owner's property. The resident confirmed via a contractor, plumber, and city inspectors the leak was external to her residence. The HOA insurance company also got involved and indicated for most of the seven years the problem was to be covered by the resident's personal condo policy and not the condo complex's policy. You see where this is going and not going very well.

The damage to the condo from leaking water was also causing rot in the hallways resulting in a hole in the wall. City building inspectors and zoning personnel were summoned but failed to cause action by the Board or PMC. Then one day, over 1500 days after the problem first surfaced with HOA Board, the roof was fixed and the leak in the condo unit stopped and no more leaking water into the interior walls of the building. So, finally all is well? Hold on! Although the roof was repaired ending leakage the homeowner is still left with damage in her unit and no one, not the Board, PMC, or any insurance company willing to compensate her for damages.

You might simply ask why the homeowner didn't take the HOA or insurance company to Court. It would become an expensive "he said, she said" legal case in which the homeowner would incur thousands in preparation/legal costs for her case, the HOA would pay its' lawyers with HOA funds to defend their position, and the insurance, with unlimited funding, would defend its' actions. Anyone thinking you just go to small claims court without a lawyer to gain "justice" is in for a rude awakening. Then again, how many of us have the funds to go to Court? We aren't suggesting homeowners never go to Court but be prepared for a litigious, time consuming, and costly experience in this pay-to-play justice system. Then be prepared to pay all HOA, PMC, and or insurance company legal costs if you lose. This can result in some serious dollars.

We at the Colorado HOA Forum advocate legislative change to move disputes between an HOA, PMC, and/or HOA homeowner for issues less than \$7,500 and not a felony out of the court and into an out of court, binding dispute resolution process. This case would have been settled long ago with such a solution.

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