

CASA DE OAKS HOMEOWNERS' ASSOCIATION

A California Non-Profit Mutual Benefit Corporation

WATER INTRUSION & PLUMBING BACK-UP POLICY

The Casa De Oaks Homeowners' Association ("Association") requires a clear and consistent policy for handling routine and emergency plumbing issues within the Association Project, including plumbing leaks, mold remediation and drain line backups.

The following policies are intended to provide clear guidelines and procedures for consistently responding to water intrusions, and damage caused thereby, without requiring legal consultation in each instance, in order to protect the financial interests of both the individual Owners and the Association.

This policy has been adopted by the Board in the exercise of its duty to maintain, protect and enhance the value of the properties, as well as the property and financial interests of all Owners, by expressing policies and procedures for the Board to address such claims, consistent with the requirements of the law and the Association's governing documents.

I. PREFACE

According to the *Amended and Restated Declaration of Covenants, Conditions and Restrictions of Casa De Oaks Homeowners' Association* (the "CC&Rs"), the Association is generally responsible for the maintenance, repair, and replacement of all Common Area components, including, but not limited to, beams, bearing walls, columns, balcony railings, pipes, ducts, flues, chutes, conduits, wires, and other utility installations, wherever located, except the outlets thereof when located within the Unit. (CC&Rs, § 2.6; Condominium Plan, Note 3; CC&Rs, § 9.1.) Further, the Association is required to maintain, repair, and replace sewer, water, telephone, plumbing and electrical lines located under or within the Common Area; however, the cost of such systems serving a Unit is the responsibility of the Owner of said Unit. (CC&Rs, Art. IX.) The Association is responsible for the maintenance, repair or replacement of plumbing, electrical, telephone, heating and air conditioning systems serving a Unit, but located within the Common Area, and must assess the costs of same to the Owner of the Unit so serviced, by way of Special Individual Assessment. (CC&Rs, Art. IX; CC&Rs, § 6.10.)

Pursuant to the CC&Rs, each Owner is generally responsible for the maintenance, repair and replacement of the Unit, which are the elements of a Condominium not owned in common with the other owners of other Condominiums, the boundaries of which are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors, and the airspace encompassed therein. (CC&Rs, § 2.23; Condominium Plan, Notes 3 & 7; Civil Code § 4125, § 4185(b), § 4775.)

Among other components, Owners are responsible for the maintenance, repair and replacement of interior plumbing fixtures and outlets, such as toilets, sinks, bathtubs, showers, shower heads, faucets and water hoses located within the boundaries of the Unit. (*Summary of Association/Owner Maintenance, Repair & Replacement Responsibility*, CC&Rs, Exhibit B (“Maintenance Matrix”).) Owners are also responsible for kitchen appliances, such as refrigerators, dishwashers, disposals, as well as other appliances, such as washing machines and water heaters. (Maintenance Matrix.) Each Owner shall also be responsible for maintaining in an open and unobstructed condition all sewer and drainage pipes and lines serving only his or her Unit. (CC&Rs, § 9.2(B)(ii).)

Except for damages covered (if any) by the Association’s insurance policy, the Association (including, but not limited to its Board, officers, manager or its employees or agents) are not responsible for injury, damage or loss to any Unit interior, including, without limitation, fixtures, cabinets, paint, wall coverings, window coverings, floor coverings, as well as any personal property, and other items within a Unit, resulting from water which may leak or flow from outside of any Unit or from any part of the building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause (including, but not limited to, any Common Area component), provided the Association, its Board, agents or employees acted in good faith (based on the information known to the Association) and without willful or intentional misconduct. (CC&Rs, § 9.5; Civil Code § 4775; *Lamden v. La Jolla Shores Clubdominium Ass’n* (1999).) Additionally, the Association is not be liable for costs necessary to test for the presence of mold, abate the same, and reconstruct Units damaged by said damages. (CC&Rs, § 9.5.)

Owners shall be responsible for the cost to repair any damage to any property caused by any component within and/or servicing his or her Unit, whether or not said damage was foreseeable to occur. (CC&Rs, § 9.2(D).)

II. INSURANCE

Each Owner is responsible for insuring his or her personal property and all other property and Improvements in his or her Condominium for which the Association has not purchased insurance. (CC&Rs, Art. XI.) Each Owner should maintain adequate levels of liability and property insurance for his or her Unit against losses to personal property located within the Unit or Exclusive Use Common Areas, and upgrades or Improvements installed by an Owner located within the Unit or Exclusive Use Common Areas. Each Owner is responsible for integrating his or her personal insurance with the Association’s coverage to confirm that the Owner’s property will be protected in the event of a loss.

It is within the discretion of the Board whether or not to submit an insurance claim to the Association’s carrier. (CC&Rs, § 11.11.) In the event of a loss for which the Association’s insurance coverage is used, the Owner will be responsible for the cost of

any deductible if the damage or loss occurs to the Owner's Unit or an item of personal property for which the Owner is responsible.

Please note that an Owner may be financially responsible to restore, repair and replace his or her Unit, even if the leak is not his or her fault. Failure to carry insurance could cost thousands of dollars. **Be proactive and be insured!**

Notwithstanding anything herein to the contrary, any and all damage sustained to the interior of a Unit, including the personal property covered under any insurance policy, whether held by the Association or the Owner, will be a covered loss and such claim must be timely submitted to the insurance carrier.

III. PREVENTIVE MAINTENANCE REQUIREMENTS

Owners are expected to proactively perform regular inspections and maintenance on their plumbing lines within their Unit, plumbing fixtures and appliances whether free standing or built-in, including, but not limited to, the following:

1. All appliances and fixtures that use or hold water, including, but not limited to, toilets, sinks, bathtubs, showers, dishwashers, refrigerators, washing machines, water heaters, etc., as well as all related components;
2. Plumbing supply lines to toilets, sinks and other appliances, such as refrigerators;
3. Washing machine hoses;
4. Maintenance of sewer lines in an open and unobstructed condition, to the extent said lines exclusively serve the Unit;
5. Ensure proper operation of shut-off valves;
6. Regularly use bathroom exhaust fans and keep units well ventilated in order to reduce moisture and the potential for mold growth.

All such inspections, maintenance and repairs should be performed as needed, but at least annually, by someone qualified to recognize and perform these needed inspections and repairs (Please note that use of drain cleaner products such as Drano are discouraged since the product itself may solidify and cause damage to the plumbing lines.)

The Association strongly encourages owners to document all such inspections, maintenance and repairs so that the Owner can demonstrate to the Association that he/she has acted reasonably and responsibly in fulfilling his/her responsibilities.

Please note that an Owner's failure to inspect, maintain and repair the plumbing lines, fixtures and appliances in his/her unit as stated in this policy shall constitute negligence by that Owner. Regardless of fault, the CC&Rs are clear in that the Owner shall be financially liable for any and all damage to Common Area and/or other Units for damage originating from an item under his/her control.

IV. PLUMBING PROTOCOL & PROCEDURES

The Association shall not be liable to any Owner or his or her family, tenants, guests, invitees or others for damage to personal property, decorations, and other similar items within a Unit, resulting from water which may leak or flow from outside of any Unit or from any part of the building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause, unless caused by the bad faith or willful or intentional misconduct of the Association, its Board of Directors, Agents or Employees. **Therefore you, as an Owner, are strongly encouraged to carry proper insurance for such personal property and Improvements to your Unit.**

Water intrusion and related matters should be reported as outlined herein.

A. Water Intrusion (Leaks)

Owners/Residents are required to repair all leaks in their Units, and to report all water intrusion and/or mold growth in their Units to Management immediately upon discovery. It is frequently impossible to determine who is ultimately responsible for a leak or moisture intrusion problem before work begins. Therefore, when responsibility is uncertain, the Association will begin the work and will advise the Owner/Resident within a reasonable time if and when the Association believes one or more Owners may have full or partial financial responsibility.

The Association will not clean or replace any of the Owner/Resident's personal property. The Owner/Resident is solely responsible for cleaning or replacing any damaged furniture, clothing or other personal property within his/her Unit regardless of the source of the water intrusion. The Owner will also be responsible for the Unit's utility costs, even if the contractor undertaking the remediation and restoration work uses these utilities.

Every Owner/Resident may make his or her individual decision whether to remain in the unit during the remediation and restoration work, except that the Association may require an Owner/Resident to relocate during certain remediation and restoration work, including, without limitation, structural repairs and mold remediation. Anyone contemplating remaining in the Unit during remediation and restoration work should consult with their personal physician before making a final decision. Any Owner/Resident choosing to remain in the Unit does so at his/her own risk.

The Owner/Resident, not the Association, shall be responsible for all relocation costs during the remediation and/or restoration period. If the Unit is occupied by a tenant, the Owner and tenant must resolve any issues associated with relocation between themselves. The Association does not assume any responsibility for the Owner's lost rent, temporary relocation costs and/or loss of use, if any.

Protocol:

- Call Management immediately upon discovery of water intrusion. Reporting a leak via email can result in a delayed response. Leaks should be addressed immediately via telephone upon discovery to avoid major damage.

B. Water Shut Offs

Since the water shut offs in your Unit may affect other Units, please abide by the following protocol for water shut offs:

Protocol:

- Contact Management to determine if non-emergency plumbing repair in your Unit requires shutting off water to other Units, such that those Units may be notified at least seventy-two (72) hours before the shut off.
- Non-emergency water shut offs shall not be conducted on Fridays, weekends, or holidays.
- For Emergency shut offs, locate the water shut offs in your Unit and shut off the water. If you do not know where water shut off valves are located, it is your responsibility to schedule a time to consult with Management to show you where they are located. After the water is shut off, or if you are having problems shutting off the water, contact Management immediately.

C. Clogged Kitchen Lines

These types of clogs are typically due to improper use of garbage disposals (i.e. disposing of foods and grease) or a malfunctioning garbage disposal. Foods like corn husks, egg shells, bones, celery, onion skins, rice, potato skins, and other fibrous items, or liquid or solid grease can cause a back-up in the drain line. You are also discouraged from using drain cleaner products, such as Drano, to unclog a sink.

Protocol:

- Contact Management immediately, who will contact an Association approved plumber to investigate.

- If the Association's plumber determines that the plug was local to the Unit's plumbing line (i.e., caused by the Owner/Resident), then the Resident or Owner of the Unit is responsible for reimbursing the Association for the plumber's invoice. The Owner is required to contact a licensed and insured plumber to perform the repairs; otherwise, if the Association's plumber performs the repair work, the Owner shall pay the plumber's invoice at the time of service.
- If the Association's plumber determines that the plug was in the main line, then the Association will be billed for the work.

D. Clogged Sewer Lines

Owners are responsible for all sewer back-ups that occur in a pipe that services only their Unit, regardless of where said pipe is located. Additionally, Owners are responsible for the plumbing lines located within their Unit's airspace, including, without limitation, the lines under sinks, toilet supply lines, etc. Paper towels, wet wipes, and sanitary products should never be flushed down the toilet.

Protocol:

- Contact Management immediately, who will contact an Association approved plumber to investigate.
- If the Association's plumber determines that the plug was local to the Unit's plumbing line (i.e., caused by the Owner/Resident), then the Resident or Owner of the Unit is responsible for reimbursing the Association for the plumber's invoice. The Resident/Owner is required to contact a licensed and insured plumber to perform the repairs; otherwise, if the Association's plumber performs the repair work, the Owner shall pay the plumber's invoice at the time of service.
- If the Association's plumber determines that the plug was in the main line, then the Association will be billed for the work.

V. RESPONSIBILITY FOR WATER DAMAGE

A. Water Damage Caused by a Common Area Component

In the event of a leak originating from a Common Area component, the Association will incur the cost to stop the water leak, repair or replace (as necessary) the Common Area component, dry out the affected Common Areas and/or Units, and will remediate any mold in the Common Areas only. The Owner shall be responsible for the costs of testing for mold and shall be responsible for abating or remediating mold, if any, in the Unit.

However, the Association will not repair, restore or remediate the Unit or clean or replace any of the Owner/Resident's personal property. The Owner/Resident is

responsible for repairing or replacing any damage caused by water intrusion – from whatever source – at his/her/its sole cost and expense. The Owner/Resident is further solely responsible for cleaning or replacing any damaged furniture, clothing or other personal property within his/her/its Unit.

It is within the Board's discretion to tender any claim to the Association's insurance policy. Unless the damage is covered by the Association's insurance policy (if the Board determines to tender the claim) or unless the damage resulted from the Association's willful or intentional misconduct, or bad faith, the Owner/Resident is solely responsible for cleaning or replacing (including mold remediation) any damaged wall or floor covering (e.g., paint, wall paper, wood, tile, marble, linoleum, stone, slate, etc.), furniture, clothing or other personal property within his/her Unit.

B. Adjacent Unit Responsibility for Water Damage

When a leak originates in an adjoining and/or adjacent Unit, the Association is not responsible to repair the leak, dry out affected Units, or repair the damage to the affected Units. Each Owner affected by a leak in an adjoining Unit must be prepared to act to protect and restore his or her own Unit. The Association will provide any Owner with the contact information of the Owner of the adjoining or adjacent Unit in the event of water intrusion.

However, due to the potential for excessive damage if the situation is not immediately addressed by all affected Owners, or if the Common Area is affected, the Association is prepared to act as outlined in this section.

If an Owner or his/her insurance carrier does not immediately accept responsibility for a water leak or moisture intrusion, the Association may enter the affected Unit(s) to make remedial repairs, including, but not limited to: extracting any water; drying out the Unit(s); removing drywall as necessary; and removing cabinets, floor coverings, baseboards, appliances and other fixtures, and drywall as necessary to access any water and/or mold in the Common Area wall cavities. Except in the case of emergency, entry will only be made after 24 hours written notice or with the consent of the Owner or Resident.

Regardless of whether a Unit is the source of the leak or is merely damaged by a leak in an adjacent Unit, the Association does not guarantee or warranty the condition of any removed items or whether these items can be reinstalled or reused or whether they will have to be replaced. The Association will not be responsible for any damage to these items. The risk of loss or damage to these items shall remain with the Owner. (As stated above, Owners should carry their own insurance coverage to protect themselves against damage to these items.)

The Association is responsible for performing the repair of any damage to the Common Area or items over which the Association has control, at the responsible Owner's expense; the Board may, in its sole discretion, elect to tender the claim to the

Association's carrier and the responsible Owner shall be responsible for the cost of any deductible applicable to the covered claim.

Any costs and expenses incurred by the Association to repair shall be assessed and charged solely to and against the Owner who is responsible for the maintenance, repair or replacement of the component that causes damage to the Common Area or any area which the Association is obligated to maintain as a Special Individual Assessment. Each Owner is strongly encouraged to carry "Loss Assessment" coverage as part of their insurance policy, of up to the deductible amount of the Association's insurance.

Any and all affected Owners must seek their own recovery from the party ultimately responsible. The Association will not act as the representative for any Owner/Resident on the issue of cost recovery.

C. Unit Responsible for Water Damage

If it appears that a water leak, back-up waste water, and/or mold growth is only in, or has only affected the responsible Unit, and the Common Area walls, ceilings or floors have not been affected by water intrusion, the Association will do nothing beyond ensuring that water will not spread to Common Areas or other Units. The responsibility for dealing with the problem will be the Owner of the affected Unit's sole responsibility.

If it appears that the water leak, back-up waste water, and/or mold growth is not just in the responsible Unit, but also has affected the Common Area walls, ceilings and/or floors, the responsible Owner shall be liable for all repair and restoration costs. However, should the responsible Owner fail to immediately repair water damage, the Association may make repairs, dry out the Common Areas and affected Unit(s), and remove cabinets, floor coverings, baseboards, appliances and other fixtures and drywall as necessary to access the water and/or mold in the Common Area wall cavities.

The Association may levy a Special Assessment pursuant to the CC&Rs against the Owner to recover costs and expenses incurred for repair. Other affected Owners must seek their own recovery from the party responsible for the water intrusion. The Association will not act as the representative for any Owner/Resident to recover costs and expenses for repair and in connection therewith.

D. Shared Responsibility: Association and Unit Responsible for Water Damage

The Association will repair the water leak, dry out the affected Unit(s) and Common Area, and/or perform the mold remediation and restoration as described above in Section A. However, the Association will require the co-responsible party to contribute their percentage share of the cost of such work based on their percentage share of the responsibility.

The Association will notify the impacted Owner(s) as soon as reasonably possible of the Owner(s) anticipated or expected financial contribution in the event of shared responsibility. Failure of the Association to notify the Owner(s) will not eliminate the Owner(s) responsibility to pay their proportionate share of the total costs incurred.

The foregoing guidelines have been adopted by the Board of Directors and are in effect as of the 20th day of April, 2016.