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**Q:** We still have a few unit owners that have not paid their special assessment related to Hurricane Irma repairs. They did not have loss assessment insurance and are claiming they do not have to pay the assessment. Can they condition their payment on insurance coverage? *G. G., Naples*

**A:** No, unit owners may not be excused from special assessment obligations due to lack of insurance. Florida law provides that every insurance policy issued for a residential condominium unit must contain at least \$2,000 of loss assessment coverage. This means that when the association levies a special assessment to pay for damage to the condominium property caused by an insurable event, the unit owners' insurance should reimburse the owner for some or all of the assessment depending on your specific deductible and coverage amounts.

A few additional notes. Florida law does not currently require condominium unit owners to maintain insurance covering their obligations under Florida law. Although the association's insurance obligations cover a large portion of the condominium property, the unit owner is responsible to insure certain property such as carpets, wall coverings, cabinets, furniture, etc. Although the statute provides that the owner is responsible to insure this property, the statute does not mandate that the owner carry insurance. As a result, it is possible some portions of the property have no insurance at all – including loss assessment coverage.

Secondly, each insurance policy is different. The statute contemplates that each unit owners' personal HO-6 policy may be slightly different. Some policies may be drafted very narrowly, for example, to exclude any special assessment that is intended to pay for a deductible. Other policies may be drafted very broadly and would cover any special assessment related to a hurricane event. When purchasing your HO-6 insurance, it is important to work with a knowledgeable agent that understands the

scope of your particular policy language.

So, if the owner has not paid the special assessment, the board needs to take the next step in its collection procedure. Typically, this would involve sending the owner a notice that the association will record a lien against the unit if the special assessment is not paid within 30 days. There are special requirements for these demand letters, so it is recom-

mended that you work with your legal counsel to follow the appropriate state and federal collections laws as well as your governing documents.

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