



Condominium Law Q&A

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Question – I live in a condominium on the ocean that was damaged by last year’s hurricanes. The only damage to our unit was our bowed sliding glass doors, as we did have storm shutters. I reported the damage to “my” insurance company because we always paid for any maintenance on the doors. The adjuster came out and approved the replacement of new doors ... however...our condo is 15 years old and replacements have to be made under the current code. It seems that the replacement windows require a different type of frame and are more costly than the present doors. The condo board of directors would have to choose the style of a new door, and they are not prepared to address that problem, which leaves me helpless. The replacement cost is much higher than approved by the insurance company. My insurance company recently advised me that I should check with the association to see if it is considered a common area, and if so, it should be submitted to the condo insurance company. Our management is now stating that it is a common area and it is an unwritten law that each unit handle the maintenance. D.Y., Ponce Inlet

Answer – The insurance agent who advised that your insurance carrier would pay to replace the sliding glass doors was wrong. It is the association’s carrier which has primary responsibility for repair or replacement of sliding glass doors and windows damaged by a hurricane, regardless of whether the unit owner or association is responsible for the cost of maintaining the glass. Also, the additional cost to bring the doors up to current code requirements should be covered

under the association’s “law and ordinance” rider. Tell the manager the written law says the association is responsible. Good luck.

Question – What is the statute of limitations on construction code violations? J.S., Cape Canaveral

Answer –The primary causes of action for construction defects in a condominium setting are: (1) expressed warranties; (2) common law warranties, and (3) statutory warranties. An expressed warranty is one given by the developer to purchasers of new condominiums, which states that the developer warrants the quality of improvements for a defined period of time subject to the limitations set forth in the warranty. Common law warranties are warranties that have evolved by operation of law. For example, there is an implied warranty that the improvements will be built in accordance with the approved building plans. In addition, prior to codification of warranties in the statutes, an appellate court held that consumers of new condominiums are entitled to an implied warranty of fitness and merchantability on the condominium unit. Shortly, thereafter, the Condominium Act was amended to provide that the developer shall be deemed to have granted to the purchaser of each unit an implied warranty of fitness and merchantability for the purposes or uses intended. The warranty period runs for 3 years from completion of the building containing the unit, or one year after the owners, other than the developer, obtain control of the association, whichever occurs last, but

in no event more than five years. Totally independent from the period of the warranty is the timeframe for bringing a lawsuit contending that a defect manifested itself during the warranty period. The statute of limitations for bringing a warranty claim is four years from transition of the association from the developer to the unit owners, or four years after the expiration of the warranty period, whichever is later. ■

Gary A. Poliakoff is a founding principal of [Becker & Poliakoff, P.A.](#) and has served as its President since the inception of the Firm. He is on the Board of Governors of the Shepard Broad Law Center of Nova Southeastern University where he is an Adjunct Professor, teaching Condominium Law and Practice.

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