

**A MOTION BEFORE COUNCIL
PINEHURST, INC.**

SUBJECT

WHEREAS, Council for Pinehurst, Inc., also known as Pinehurst Condominium Association (“Association” or “PCA”) desires to document approval of a motion for a new Rule and Regulation clarifying responsibility for deductibles and other losses, and an application of this policy to handling future claims and losses resulting from burst pipes or other leaks of interior plumbing.

BACKGROUND

WHEREAS, Pinehurst, Inc., a Pennsylvania corporation, is incorporated under the Commonwealth of Pennsylvania Unit Property Act, which states that damage to or destruction of the building or of one or more of several buildings which comprise the property, shall be promptly repaired and restored by the council using the proceeds of insurance held by the council, if any, for that purpose, and the unit owners directly affected shall be liable for assessment for any deficiency in proportion to their respective undivided ownership of the common elements.

WHEREAS, Units contain both water service (a 1” ferrous-type “main” line) serving all the Units within a building, which is a Common Element, as well as interior plumbing generally consisting of ½” copper lines, which are deemed part of a Unit and serve only one Unit. Accordingly, the proper maintenance, repair and replacement of such interior plumbing is the responsibility of the Unit Owner, except for the common “main” line running through the basement of the building:

- a. Article III Sections 3-9 define the vertical and horizontal boundaries of a Unit and Section 13 states that “no owner shall own any of the pipes....which run through his Unit *and serves more than his unit....*” (emphasis added) The intent of the Declarations is to define interior plumbing, including the outside spigot which serves only one Unit and any continuous extensions of the interior plumbing controlled from within a single Unit, as part of the Unit and not the Common Elements, since these ½” pipes serve a single Unit.
- b. Article III Section 15 states that “each Unit Owner shall have the sole obligation to maintain, repair and replace his Unit and the parts thereof including, but not limited to, all heating, plumbing...water pipes....gas pipes, plumbing fixtures and connections....” The intent of the Declarations is for Owners to be responsible for the Unit’s pipes and connections serving a single Unit. The responsibility for the “main” line remains with the Association, which in recent years has used common funds to upgrade the service as mandated by the utility (i.e. installed backflow preventers).
- c. Article VIII Section 3 (Repair or Reconstruction After Fire or Other Casualty) states that “any cost of such repair or restoration of one of more townhouses in excess of the insurance proceeds shall constitute....an expense of the respective Owner or Owners of the Unit in that townhouse or townhouses and, in any case, the Council may assess the said Unit Owner or Unit Owners of a Unit or Units in the townhouse...as the case may be...*the amount of such deficit individually or as part of the apportioned charges as appropriate.*” (emphasis added) The intent of Declarations is to hold Owners financially responsible for any deficit between the cost of repairs and restoration and the amount reimbursed by any applicable insurance coverage. Financial responsibility may take the form of expenses of the Owner or charges and assessments made

directly to the affected Unit or Units. Deficits shall include, but not be limited to, deductibles and other disallowed claims regardless of their nature (e.g. exceeding coverage limits).

- d. Finally, Article VIII (Operation of the Property) Sections 10 (a) and (b) state that “all maintenance, repairs and replacements to the Common Elements and facilities, whether located inside *or outside of the Units* (unless necessitated by the *negligence, misuse or neglect of a Unit Owner*, in which cases such expense shall be charges to such Unit Owner....)...” (Emphasis added) Even were it to be argued that, for example, all interior water pipes and outside spigots were a Common Element, any damages that could have been prevented by the Owner makes the Unit Owner liable for any claims not covered by the master insurance policy or individual homeowner policy. Furthermore, the Association issues an annual reminder to Owners to properly drain pipes and spigots during the winter to help prevent burst pipes.

NOW THEREFORE, Resolved: That Pinehurst Condominium Association defines all interior pipes and plumbing serving a single Unit, along with any connections that are exterior to or fall outside the boundaries of the Unit, such as spigots, as part of the Unit for which maintenance, repair and upkeep is the responsibility of the Unit Owner. All branches emanating from a single Unit and serviced by water under the control of a single Unit is also part of the Unit. Furthermore, any unreimbursed expenses or charges related to a loss to a Unit or Units from water leaks will be the responsibility of the Unit Owner where the leak occurs, unless the damage in the judgment of Council was not the result of negligence, misuse or neglect. Claims may be submitted to the master insurance policy and homeowner insurance policy as may exist at the time and any deficits, including deductibles, will be the responsibility of the Unit Owner where the leak originated.

IN WITNESS WHEREOF, the undersigned, William Wells, President of Pinehurst, Inc., attests that this motion passed by a majority vote of Council members constituting a quorum on June 25, 2016.

Pinehurst, Inc.
William Wells
President

Attest:

Chris DeNardo, Vice-President & Member

Steve Burton, Member