

Before the
Commission on Common Ownership Communities
Montgomery County, Maryland

In the Matter of

Nanda Alapati :
9714 Winery Court :
Gaithersburg, MD 20879, :
Complanant, :

v. :

Case No. 20-15
April 15 , 2016

Meadow Ridge Villas Condominium Assn., Inc. :
c/o Richard Schimel, Esq. :
Suite 800 West :
7315 Wisconsin Avenue :
Bethesda, MD 20814, :
Respondent. :

DECISION AND ORDER

The above-entitled case having come before the Commission on Common Ownership Communities for Montgomery County, Maryland, and the Commission having considered the testimony and evidence of record, finds, determines and orders as follows:

Background

Nanda Alapati, Complainant, is the owner of 9714 Winery Court, Gaithersburg, a unit in the Meadow Ridge Villas Condominium Association (the "Association"). He filed a complaint with the Office of Consumer Protection on May 19, 2015, against the Meadow Ridge Villas Condominium Association, Respondent, alleging that the Association had improperly assessed against him the \$5000 deductible resulting from an insurance claim made by the Association to repair damage from a water leak. The Association denied the allegation, asserting that the deductible was the responsibility of the unit owner because the pipe that broke served only the unit owned by Mr. Alapati.

This dispute was presented to the Commission on Common Ownership Communities for consideration on December 2, 2015 and the Commission accepted jurisdiction at that time. The matter was scheduled for public hearing on February 17, 2016 and a public hearing was held on that date. The record was closed at the conclusion of the hearing.

Findings of Fact

On January 9, 2015 a water pipe in the attic of 9714 Winery Court, Gaithersburg, Maryland, broke resulting in water damage in the three units in that building (9712, 9714 and 9716). The building is in the Meadow Ridge Villas Condominium Association development. Mr. Alapati owns 9714 and his parents reside there. His parents spend the winter in Florida so they were not living in the unit when the pipe broke.

The Association managed the repairs from the water damage for all three units and submitted a claim to the insurance carrier for the master policy. The policy has a \$5000 deductible.

The Maryland Condominium Act, Title 11 of the Real Property Article, Maryland Code at section 11-114 (g) (2) relating to master insurance and the deductible says, in relevant part:

(i) 1. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

2. A property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds.

(ii) If the cause of any damage to or destruction of any portion of the condominium originates from the common elements, the council of unit owners' property insurance deductible is a common expense.

(iii) 1. If the cause of any damage to or destruction of any portion of the condominium originates from a unit, the owner of the unit where the cause of the damage or destruction originated is responsible for the council of unit owners' property insurance deductible not to exceed \$5000.--

The Meadow Ridge Villas Condominium Association Declaration at Article III describes the units. Section 3.1. C. "Equipment" includes the following language:

Any chute, flue, duct, wire, conduit, or any other fixture that lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a part of that unit, and any portion thereof serving more than one Unit, or any portion of the Common Elements, is a part of the Common Elements.

The Association Bylaws at Article XII, subparagraph E, provides that when a casualty loss "originates within a single unit" the unit owner will be responsible for the deductible to the maximum amount permitted by law.

The pipe that broke was located in the attic and thus outside of the boundaries of the unit.

Mr. Alapati testified that he stood on a ladder at the hatch opening to the attic and took a picture of the plumbing pipes. This photograph is in the record a number of times with speculative annotations by Mr. Alapati. Mr. Alapati testified that he did not know where the pipes went.

The plumbing repairs were made by Denault King, an experienced plumber employed by Gaithersburg Plumbing. Ron Smith, the President of Gaithersburg Plumbing, testified that in his opinion the annotations were not correct. Mr. Smith had not been at the site of this incident but had done work on other units in the complex. He testified that based on Mr. King's report on the work he had done, his own knowledge of the construction of the units and Mr. Alapati's photograph, the T shaped pipe that had broken was part of the plumbing fixtures that served to distribute water within that unit.

The minutes of a meeting of unit owners on February 11, 2015 include a record of a board meeting on February 4, 2015 at which the board voted to charge the owner of unit 9714 for the \$5000 insurance deductible. No explanation for the basis of that decision is included in the minutes.

Conclusions of Law

The language of the Declaration related to equipment outside the boundaries of a unit that serves only one unit does not explicitly include plumbing fixtures. However, the board has interpreted that it does. While the specifics listed in the Declaration do not include plumbing, the catch-all "fixtures" is broad enough to include plumbing.

It is sufficient to interpret the Declaration description of a unit to include equipment outside the unit but serving only that unit as part of the unit to meet the statutory and Bylaws provision regarding assessment of the deductible to the owner of the unit from which damage emanated.

Under Maryland law, the Board's interpretation of association documents is entitled to deference and falls within the application of the business judgment rule. Tackney v. United States Naval Academy Alumni Assn, 408 Md. 700 (2009). The decision of the Association's Board of Directors is affirmed.

ORDER

The relief sought by the Complainant is denied and this matter is dismissed.

The foregoing was concurred in by panel members Brandes, Zajic and Stevens.

Any party aggrieved by the action of the Commission may file an appeal to the Circuit Court of Montgomery County, Maryland, within thirty (30) days from the date of this Order pursuant to the Maryland Rules of Procedure governing administrative appeals.


Dinah Stevens
Panel Chair