

ARNOLD GALLAGHER  
A Professional Corporation  
ATTORNEYS AT LAW

800 U.S. Bank Center  
800 Willamette Street  
Eugene, OR 97401

Telephone: (541) 484-0188  
Facsimile: (541) 484-0536  
E-Mail: rschwarzkopf@agsprp.com  
www.arnoldgallagher.com

Correspondence:  
P.O. Box 1758  
Eugene, OR 97440-1758

REBECCA S. SCHWARZKOPF

September 10, 2013

*Via Email Only*

Anne Geertsen  
Sterling Management Group, Inc.  
977 Willagillespie Road  
Eugene, OR 97401

Re: New Oak Park Townhouses Homeowners Association  
Please Refer to Our File No. 18018-2

Dear Anne:

You asked me to review the Declaration of a Planned Community for Oak Park Townhouses (the "Declaration") and the Bylaws of Oak Park Townhouses Homeowners Association, Inc. (the "Bylaws"), in connection with the insurance questions that have arisen because of the failure of a water heater in one of the units. You describe two issues that require clarification:

1. What responsibilities does the Association have for maintenance, repair, and replacement of the units? Article 7 of the Declaration deals with exterior maintenance and requires that the Association be responsible for exterior maintenance which expressly includes "the repair, maintenance, and replacements of exterior of dwelling units including paint, repairs, replacements and care of roofs, gutters, downspouts, exterior of building surfaces, including carports, driveways, if located on lots." Accordingly, I believe the Board is accurate in its understanding that it is responsible for the studs outward. Unfortunately, the Declaration is not clear that the Board would be responsible for structural repair, maintenance, or replacement if an issue came up with the studs themselves, for example, but it is my opinion that was Declarant's intent. The Association is not responsible for the interior of the units, party walls, or any personal property within the units. Article IX of the Bylaws clearly requires the Association to maintain casualty insurance on all dwelling units, which insurance must be primary. It is not clear to me what your insurance agent means by "the coverage is dictated by" the Declaration and Bylaws.

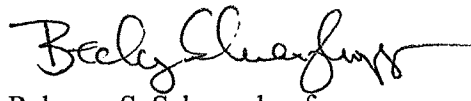
2. Who pays for the deductible in the event of an insured casualty? Because the Declaration and Bylaws do not address this issue, ORS 94.676 allows the Board to adopt a resolution that assigns responsibility for payment of the amount of the deductible. The resolution

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must include the circumstances under which the deductible will be charged against all or some of the owners and the allocation of the deductible to those charged. It may also require the owners maintain insurance for the amount of the Association's deductible and for loss or damage to personal property. The text of ORS 94.676 is attached to this letter for your reference.

I hope this provides the clarification the Board is seeking. If you would like to discuss either of these issues further or would like us to prepare draft resolutions for the Board, please let me know.

Very truly yours,



Rebecca S. Schwarzkopf

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