

Re: Repairs of BALCONIES

THOMAS J. ANSBRO, ESQ.  
100 West Dania Beach Blvd.  
Dania Beach, FL 33004  
Telephone: (954) 924-6800 Ext. 3635  
Facsimile: (954) 921-2604

June 4, 2013

Robert Happ, Association President  
Pelican Cove Property Owners' Association, Inc.  
6110 North Ocean Drive  
Ocean Ridge, FL 33435

RE: Responsibility for Balcony repairs

Dear Mr. Happ:

On behalf of the Board of Directors of the Association, Property Manager Barbara Rose has asked if costs associated with repairs of balconies are the responsibility of the Unit Owners or the Association.

Based upon the following analysis, such repair costs are the obligation of the respective Unit Owners. The Declaration of Covenants and Restrictions of the Pelican Cove Property Owners' Association (the "Declaration") is controlling. Pursuant to Section III ("Maintenance of Common Property") of the Declaration:

- A. The Association shall be responsible for the maintenance of the Common Property...
- B. In addition, the Association shall be responsible for the following items:
  - (1) Maintenance of the exterior surfaces of each dwelling Unit, including the exterior walls and the painting of exterior surfaces...

The "Common Property" is defined in the Declaration:

Section II: Pelican Cove Property Owners' Association

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B. Association Property:

- 1. Common Property. That portion of the Property which is not platted as individual lots shall be known as the "Common Property". The Common Property is intended for the use of the members of the Association and their guests and invitees. The Association is responsible for the management,

maintenance and operation of the Common Property. Title to the Common Property is vested in the Association.

The subject repair work involves removal of exterior items (balcony flooring, decking, or tiles), so that the concrete decks of the balcony underneath those exterior items will be exposed and made accessible to repair people who seek to identify and repair possible cracks in the balcony concrete deck, which cracks may be causing leaks.

It is apparently not the "exterior surfaces" of the balconies that need maintenance or repair, but the concrete decks or floors to which the tiles or decks are attached. Consequently, the Association is not responsible for those types of structural repairs to a Unit.

If further information or clarification is needed, please let me know.

Sincerely,

Thomas J. Ansbro, Esquire

TJA/mjl

cc: Barbara Rose

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April 27, 2017

Pelican Cove Property Owners' Association, Inc.  
Attn: John Snyder, Property Manager  
6110 North Ocean Drive  
Ocean Ridge, FL 33435

RE: Responsibility for Balcony Repairs for Units Five (5) and Eleven (11)

Dear Mr. Snyder:

You have asked if costs associated with repairs of balconies (for Units Five and Eleven) are the responsibility of the Unit Owners or the Association.

Based upon a review of the two Units' repair estimates' work descriptions that you forwarded to me (they are identical for all repair work and costs), repair costs are the obligation of the respective Unit Owners. The Declaration of Covenants and Restrictions of the Pelican Cove Property Owners' Association (the "Declaration") is controlling. Pursuant to Section III ("Maintenance of Common Property") of the Declaration:

- A. The Association shall be responsible for the maintenance of the Common Property...
- B. In addition, the Association shall be responsible for the following items:

(1) Maintenance of the exterior surfaces of each dwelling Unit, including the exterior walls and the painting of exterior surfaces... [emphasis added].

The repair work for both Units involves removal of "existing tiles" so that the decks of the balcony underneath those exterior items will be exposed and made accessible to the repair company to conduct its work.

It is clearly not the "exterior surfaces" of the balconies that need maintenance or repair, but the decks or floors to which the exterior tiles are attached. Consequently, the Association is not responsible for those types of structural repairs to a Unit. This opinion and conclusion are fully consistent with two previous opinions I have given to the Association (one on June 4, 2013 and another on January 16, 2014).



Pelican Cove Property Owners' Association, Inc.  
April 27, 2017  
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If further information or clarification is needed, please let me know.

Sincerely,

Thomas J. Ansbro

TJA/law