

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor



RALPH S. TYLER
Commissioner

BETH SAMMIS
Deputy Commissioner

P. RANDI JOHNSON
Associate Commissioner
Property & Casualty

525 St. Paul Place, Baltimore, Maryland 21202-2272
Direct Dial: 410-468-2301 Fax: 410-468-2306
Email: prjohnson@mdinsurance.state.md.us
1-800-492-6116 TTY: 1-800-735-2258
www.mdinsurance.state.md.us

BULLETIN 08-15

To: All Property & Casualty Insurance Companies, All Property & Casualty Producers, and All Interested Parties

Re: Condominium Insurance

Date: June 20, 2008

.....

On April 15, 2008, the Court of Appeals issued an opinion in the case of Dianne Anderson, et al. v. Council of Unit Owners of The Gables on Tuckerman Condominium, et al., No. 99, September Term, 1999. In it, the Court of Appeals held that the Maryland Condominium Act, Section 11-101, *et seq.*, of the Real Property Article, Annotated Code of Maryland ("the Condo Act"), does not require a condominium association to repair or replace property of an individual condominium unit owner after a casualty loss that results in damage solely to the unit as opposed to damage to the common elements or structure of the condominium. A Motion for Reconsideration was filed and the Maryland Insurance Administration ("Insurance Administration") filed a Motion for Leave to Participate as *Amicus Curiae* for Purposes of Responding to that Motion. The Court of Appeals granted the Insurance Administration's request to participate as *amicus curiae* for purposes of responding to the Motion for Reconsideration. Then on June 10, 2008, the Court of Appeals denied the Motion for Reconsideration and issued the mandate. As such, the holding in Anderson is now the law for determining the condominium association's obligations to unit owners who suffer a casualty loss that impacts their unit only under the Condo Act.

Prior to the Court's decision in Anderson, the Condo Act had been interpreted to require the condominium association to purchase a master insurance policy that would provide primary coverage for casualty losses to the common areas, the actual structure, and the individual units, exclusive of the improvements and betterments to the units. Thus, the condominium association was primarily responsible for making repairs in the event of a casualty loss and the bulk of insurance protection was provided by a master policy purchased by the condominium association. Individual unit owners would purchase limited coverage to provide protection for

their personal liability and their personal property, as well as any improvements and betterments to the condominium units.

In light of the Court's holding in Anderson, which is contrary to the standard industry practice, it is likely that many unit owners are currently underinsured. Thus, the Insurance Administration is urging all producers to review all condominium unit owners' policies they may have written and to discuss with their clients the need to increase their coverages so that, in the event of a loss, the unit owners will not be underinsured.

Additionally, the decision in Anderson also makes it likely that condominium associations may have purchased more coverage than necessary as the policies were written with the understanding that the condominium association was responsible for losses sustained to the individual units as well as to the common elements and structure. Therefore, condominium associations that do not wish to provide this coverage may want to consider reviewing their policies to determine whether the policies provide the appropriate levels of coverage in light of the Anderson decision.

The Insurance Administration would note that the Court in Anderson merely held that condominium associations are not *required* to provide coverage for individual units damaged as a result of a casualty loss; not that the condominium associations could not do so. Thus, the Insurance Administration is urging all insurers that have issued master policies to condominium associations to contact their insureds and their producers to advise how they intend to handle casualty claims resulting in damages to a single unit.

In light of the significant changes brought about by the Anderson decision, it is critical that insurers and producers communicate with the insureds. It is important that all parties understand the risks to which they are exposed to and be offered an opportunity to purchase insurance with adequate limits to protect themselves.

If you have any questions about this Bulletin, please contact P. Randi Johnson, Associate Commissioner, Property & Casualty, by telephone at (410) 468-2301 or by E-mail at prjohnson@mdinsurance.state.md.us.

Ralph S. Tyler, Insurance Commissioner

By: _____
P. Randi Johnson, Associate Commissioner
Property & Casualty