

NOW - Civil Code 4775

Association Responsibilities

“[T]he association is responsible for *repairing, replacing, or maintaining the common area, other than exclusive use common area*[.]”

Owner Responsibilities

“[T]he owner of each separate interest is responsible for *maintaining that separate interest and any exclusive use common area appurtenant to the separate interest*.”

Who “repairs and replaces” exclusive use common area? When the CC&Rs are unclear, **homeowners are at risk.**

AFTER - Civil Code 4775

Association Responsibilities

“[T]he association is responsible for *repairing, replacing, and maintaining the common area*.”

“[T]he association is responsible for *repairing and replacing the exclusive use common area*.”

Owner Responsibilities

“[T]he owner of each separate interest is responsible for *repairing, replacing, and maintaining that separate interest*.”

“[T]he owner of each separate interest is responsible for *maintaining the exclusive use common area appurtenant to that separate interest*[.]”

Who “repairs and replaces” exclusive use common area? Unless the CC&Rs say otherwise, **associations.**

When Does AB 968 Go Into Effect?

AB 968 will go into effect on January 1, 2017. Your HOA should examine its CC&Rs to ensure that new Civil Code language does not change how your association assigns maintenance responsibility (an unlikely scenario). ECHO will provide information to help your HOA adjust to the new law before it goes into effect.

Sometimes, figuring out who pays for what in a community association is a big headache, and the answer makes everyone unhappy. The best ways to avoid these problems are the following:

1. Amend your CC&Rs to make the solutions to these problems as clear as possible.
2. Require or encourage each owner to obtain his/her own liability insurance and adequate levels of property insurance.
3. Adopt clear policies about who pays the insurance deductible.
4. Act fairly and use common sense.