

Association Policy: Common Area Tree Damage

Approved at the April 27th, 2023 Board Meeting

BACKGROUND

The Association is responsible for maintaining hundreds of mature trees throughout the Common Areas, many of which are located close to residences, parked cars, and walkways. The intent of this document is to provide guidance to homeowners on the recommended process to be followed in the event a resident's personal property is damaged by a Common Area tree or tree branch.

STEP ONE – DOCUMENTING THE DAMAGE

In the event that a resident's personal property is damaged by any portion of a tree located on Association property, the resident should immediately contact the General Manager to make the Association aware of the situation. Please note the tree tag number affixed to the tree for reference. The resident should take multiple pictures of the damaged property, including the portion of the tree causing the damage and (if able) a picture of the approximate area from which the branch or limb broke off.

STEP TWO – TENDER A CLAIM THROUGH HOMEOWNER PROPERTY INSURANCE

The next step is to tender a claim through the insurance policy covering the property that was damaged. **When the property damaged is a homeowner's personal property, including for example, the roof, fence, or yard, a claim is to be tendered to the homeowner's individual property insurance.** If a vehicle was damaged, a claim is to be tendered through the car owner's auto insurance policy. Policies like these are the first line of defense for damage done to personal property.

STEP THREE – OBTAIN A QUOTE FOR REPAIRS

In most situations, insurance carriers will request that you obtain one or more quotes from vendors to repair the damage. If you require assistance finding a vendor to provide a quote, the General Manager may be able to suggest several vendors who have performed work for other homeowners in the past.

STEP FOUR – WHEN TO INVOLVE THE HOA

The Association maintains liability insurance that would provide coverage in certain situations where someone was hurt on Association property, or if personal property was damaged and the Association was determined to be at fault. That being said, claims should first be tendered through the insurance policy covering the property that was damaged. In the event that an insurance carrier believes another party is at fault (i.e., the owner of the property that *caused* the damage), they will typically reach out to the property owner to try to recoup costs (also known as subrogation).

For example, if a tree branch damages a car, and the owner of the car files a claim through their auto insurance, that insurance carrier will likely reach out to the owner of the property that caused the damage to determine if they might be liable for the damage, especially if the carrier believes some negligence might be involved. In that specific case, both insurance carriers would discuss the situation and come to an agreement over who is responsible for the costs.

Unless your situation is unique or extraordinary, owners should follow the process laid out above before involving the Association.

FAQS - SITUATIONS NOT COVERED ABOVE

This policy is meant to cover a broad range of situations but may not be appropriate for every incident. We understand that some events may fall outside of the guidelines listed above. Below you will find some Frequently Asked Questions (FAQs) that we hope provide additional clarification:

I don't want to go through insurance – can't the HOA just reimburse me directly?

Homeowners will not be able to request reimbursement directly from the Association for damage done to their property by a tree located on Common Area unless there are special or extenuating circumstances. The Association carries insurance for a reason – so it doesn't have to pay out of pocket for damage like this. If you believe your situation merits consideration for direct reimbursement from the Association, reach out to the General Manager, who will make a determination as to the best next steps.

The total expenses for repairs are less than the deductible on my individual insurance policy, what should I do now?

Sometimes, the costs associated with a tree damage event can be lower than the deductible required to be paid for personal homeowner insurance. For example, your deductible may be \$500, and the total cost to repair the damage from a fallen branch may only be \$490. In the event this is the case, you may reach out to the General Manager and together with the Board, an evaluation and decision will be made whether the particular tree damage event warrants tendering a claim to the Association's insurance or other potential reimbursement.

What if the damage was caused during work by an HOA vendor?

Sometimes, tree damage can be caused by a vendor hired by the Association – like the landscaper or a tree care company. In that instance, please follow the steps listed in this Policy, but also reach out to the General Manager immediately when the damage is done/noticed to describe the situation, and an assessment can be made to determine responsibility for any required repairs together with the vendor that may potentially carry liability.

My situation doesn't fit any of the examples above – what do I do?

Contact the General Manager.