

(2) Encroachments upon or in favor of units which may be created as a result of reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the unit owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the building was originally constructed.

(3) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the casualty damage has been fully completed and all costs paid, such funds shall be distributed by the Insurance Trustee to the Board of Directors, who may retain such funds as a reserve or may use such funds in the maintenance and operation of the Association, or, in the discretion of the Board of Directors, such funds may be distributed to the unit owners and their mortgagees as their interests may appear, such remittances being payable jointly to the unit owners and their mortgagees.

(H) Should a loss or damage occur to the units and the general common elements and limited common elements in excess of Two-thirds (2/3) of the total value of the property, said percentage being determined solely by the Board of Directors, then the Board of Directors shall obtain reliable and detailed estimates of the cost of repair and reconstruction and thereafter shall call a meeting of the unit owners of the property no later than Sixty (60) days after the casualty to determine the wishes of the unit owners with reference to the repair or reconstruction of the property or the abandonment thereof.