

fund nor to determine the payee nor the amounts to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Manager stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided however that when a mortgagee is herein required to be named as payee, the Manager and Insurance Trustee shall also name the mortgagee as payee of any disbursement from the construction fund. Where a mortgagee is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, and the mortgagee so requires, the approval of an architect named by the Manager shall be first obtained by the Association as to any disbursements from the construction fund.

E. Failure to repair, reconstruct or rebuild, if the Association does not determine, within 90 days of the date of any casualty damaging or destroying all or any part of the property in condominium, to repair, reconstruct or rebuild, then in that event:

1. Property in condominium shall be deemed to be owned in common by the unit owners;

2. An undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

3. Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property; and

4. The property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale shall be paid to the Insurance Trustee. Such net proceeds of sale together with the net proceeds of the insurance on the property shall be considered as one fund and shall be divided among all the unit owners in shares equal to the fractional shares of undivided interest owned by each owner in the property (taking into account a unit owner's increased share by reason of a "betterments" increase or endorsement). To the extent sufficient for the purpose, a unit owner's share shall first be paid to satisfy any lien on the undivided interest in the property owned by such unit owner.

19213