

Language in Declaration Makes Association Strictly Liable

“Defendant, Castletown Corner Owner’s Association, Inc. (“Association”), had a duty to maintain a lift station. Specifically, the declaration imposed an obligation on the Association to pay “all Maintenance Costs in connection with” improvements constructed at the Association. Maintenance costs are then defined as “all of the costs necessary to maintain the ... sewers, utility strips, and other facilities ... and to keep such facilities operational and in good condition, including, but not limited to, the cost of all upkeep, maintenance, repair, replacement ... for the continuous operation of such facilities.” Plaintiff, owner of one of the commercial units, sued the Association for failing to properly maintain the lift station after an incident where the sanitary lift station malfunctioned and flooded the building with human sewage, which allegedly caused Plaintiff’s tenant to terminate its lease.”

“Did the Association breach the Declaration (contract) by failing to keep the lift station continually operable?” asks Billie Jo Fatheree in *Husch Blackwell’s Litigation*.

Read the article.