

BURDMAN & WARD

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Law in Hand

We Settled! Now Who Has to Know? Disclosure of Settlements

The association has a duty to let the members of the association know about any settlement, reached between the association and the builder or developer, in a lawsuit regarding defects in the common areas or in areas that the association is obligated to maintain.

As soon as reasonably practical after the association and the builder have entered into a settlement agreement, the association must write to the members of the association and disclose to them several things. First, the disclosure must include a general description of the defects that the association reasonably believes will be corrected or replaced. Second, the association must give the members a good faith estimate of when the association believes the defects will be repaired or replaced. The estimate of the timing may later be modified by the association. Third, the disclosure must address the status of claims for defects which had been previously identified in a preliminary list of defects but which are not part of the defects expected to be corrected or replaced by the settlement.