

# Queen's Landing

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## Polybutylene Pipe

February 20, 2017

## History of Class Action Lawsuit

- **Cox vs Shell – June 13, 1995**
  - Throughout the 1980's lawsuits were filed complaining of allegedly defective manufacturing and defective installation causing hundreds of millions of dollars in damages. Although the manufacturers have never admitted that poly is defective, they have agreed to fund the Class Action settlement with an initial and minimum amount of \$950 million. Eventually the settlement went just over \$1 billion.

## History of Class Action Lawsuit

- **Cox vs Shell – June 13, 1995**

- The material turned out to be inappropriate for use in plumbing systems, however, because standard water treatment chemicals, such as chlorine and anti-bacterials, cause it to become brittle and subject to cracking and breakage. The degradation of the pipe can also affect the water quality, as chemicals leach into the water. Polybutylene pipe must always be replaced. It has proven unreliable and will eventually fail. It cannot be repaired. Polybutylene pipes are no longer recognized by building codes in the United States and Canada.

## InterNACHI (International Association of Certified Home Inspectors)

- Polybutylene is a form of plastic resin that was used extensively in the manufacture of water supply piping from 1978 until 1995.
- Production was ceased in mid-1996 after scores of allegations surfaced claiming that polybutylene pipes were rupturing and causing property damage. In the homes that still contain this material, homeowners must either pay to have the pipes replaced or risk a potentially expensive plumbing failure.

## InterNACHI

- Small fractures deepen over time and eventually work their way to the pipe's exterior, allowing water to escape. production was ceased in mid-1996 after scores of allegations surfaced claiming that polybutylene pipes were rupturing and causing property damage.
- PB pipes installed behind sheetrock can leak unnoticed for long periods of time and cause mold and water damage. InterNACHI believes it is far cheaper to replace polybutylene pipes before they fail and release their contents onto floors, appliances and furniture. They can also reduce a home's value or prolong its time on the market.

## InterNACHI

- Homeowners might face higher insurance premiums or be denied coverage entirely.
- Home inspectors are not required to note the presence of polybutylene, and no tests for weaknesses are performed as any deterioration of polybutylene pipes happens from within and cannot be detected without turning off the water and dismantling the pipe, which is far beyond the standards of practice of home inspection.
- Inspectors should check an entire pipe for PB, not just a portion of it. Some copper piping systems have been found to use PB at junctures. A common example of this union is where PB pipe links with copper “stub outs” that feed bathroom fixtures.

## Insurance

**Per loss history, at least \$32,753.80 (8 losses) of the total losses resulted from polybutylene; another \$191,910.53 (2 losses) was paid in frozen pipe losses that may or may not have resulted in part from compromised polybutylene pipes (they get brittle as they age).**

- Bottom line is, if someone were to not replace their polybutylene pipes and a loss were to occur, they are responsible for the first \$5,000 and the Association picks of the balance of the water deductible, which would be \$20,000 since the Property policy has a \$25,000 water damage deductible. The amount from \$25,001 and over is eligible for Master Policy insurance proceeds.**
- Keeping the pipes in the units leads to losses and will deplete your reserves and which will cause condo fees increase. There are no standard market carriers at this point that will accept accounts with polybutylene.... those pipes are sure losses.**

## Insurance

### **Deductibles (not including wind, flood, or earthquake coverage) since 2008**

- **2008-09: \$5,000**
- **2009-10: \$5,000**
- **2010-11: \$5,000; \$10,000 water**
- **2011-12: \$10,000 all**
- **2012-13: \$10,000 all**
- **2013-14: \$25,000 all**
- **2014-15: \$10,000, \$25,000 water**
- **2015-16: \$10,000, \$25,000 water**
- **2016-17: \$10,000, \$25,000 water**



## Insurance

- **High Risk Pool (Non-Admitted Carrier)**
  - High insurance premiums
  - High Deductible (\$25,000)
- **Significant Savings if we are Certified PolyPipe free**
  - reduces annual premium by approximately 1/3 (\$80,000)
  - Deductible reduced to \$5,000 leaving no gap between HOA-6

# By-Laws

## 5.8 Restrictions on Use of Units and Common Elements

**(2) Nothing shall be done or kept in any unit or in the Common Elements or Limited Common Elements which will increase the rate of insurance for the Property or any part thereof applicable for residential or commercial uses without the prior written consent of the Board of Directors. No unit owner shall permit anything to be done or kept in the unit or in the Common Elements or Limited Common Elements which will result in the cancellation of insurance on the property or any part thereof which would be in violation of any law, regulation or administrative ruling or otherwise, as determined by the Board of Directors.**

## PolyPipe Removal & Certification

- All Unit Owners notified by Letter and Email in 2015
- Goal is for Inspection to be completed by 3/31/2017
- Goal is for Removal to be completed and verified by 5/31/2017
- New Insurance in place by 8/31/2017