Saving on Community Association Insurance

Is It Possible?

by Joel W. Meskin, Esq., CIRMS w Featured in FLCAJ, May 2004

In this post-9/11 era, when insurance companies are still recovering from the largest single insurable loss in history, community associations are feeling the pinch. The question arises: can a community association take steps to minimize insurance cost increase?

There is no question that the cost of insurance is a key issue for most Americans. The reality is that life in our society requires that individuals and entities have insurance to help fend off disasters and our litigious environment. Community associations, representing groups of owners, can be particularly at risk. While the desire to contain costs remains strong, community associations, whether homeowners' associations or condominium associations, have unique factors impacting their ability to purchase insurance:

•Community associations are budget-driven entities that require certainty and stability.

•Community associations are comprised of a variety of members, many of whom cannot easily absorb unplanned raises in insurance costs.

•Florida, in particular, has many associations comprised of seniors on fixed incomes who also cannot easily absorb increases.

Risk management is more challenging since community associations are less controlled than individual companies or businesses.

•Community association members have differing views regarding costs. Some may not object to the larger fees necessary to maintain an association's physical plant and amenities, while others, who may not be permanent residents, desire that monthly costs be kept at a minimum.

Fortunately, even across this myriad of circumstance and motives, there is hope. There are steps that can be taken to reduce cost increases. Here are a few ways that community associations can save:

•Choose a higher deductible. While this is not new advice, it is always the most immediate method of saving real dollars.

•A problem is that many community associations no longer view insurance as catastrophic coverage. In a condominium, in particular, it makes no sense to have a $1,000, $2,500, or even a $10,000 deductible.

If you have an association with 25 units/members, the risk of loss with a $1000 deductible is $40 per unit. With a $10,000 deductible, there would be a $400 per unit/member risk. However, members, even on fixed incomes, can probably deal better with this possibility of a loss than the certainty of increased association fees to cover insurance cost increases.

Hire community association insurance experts. Community associations are unique entities that warrant use of insurance experts who know their markets. Experts can very often ensure that you are getting what you pay for. As we all know, cheaper is not necessarily better or even appropriate. If you have two policies being presented, you want to ensure that what is being presented are apples for apples. If there is a significant cost difference, it is either that t he policy coverage is different, or a carrier is interested in buy its way into a market. When the latter is the case, it is critical that you know if the insurer is planning on staying in this market.

Redefine limits of coverage. Some coverage, such as property coverage, is very often based on replacement costs; however, certain coverage's, such as liability coverage's, are less of a science.

As an insurance broker and an attorney, I sometimes find myself in the unusual position of recommending that a community association reduce their limits of liability. The important thing is to learn from your insurance professionals and your association counsel what limits are necessary. What actually is at risk? As a litigator for over 15 years and a court-appointed arbitrator and mediator, I found that limits are often drive settlements.

I am not saying that every association should have low limits' I am just saying that the association should look more closely at the criteria used to establish their limits.

As a specialist in the area of directors and officers liability insurance, I have found that the clear majority of costs are defense fees and costs and rarely indemnity. In that regard, very rarely do the defense fees and costs exceed $1 million limits. A similar evaluation should be provided to the association with the respect to general liability exposures. The limits very often drive costs.

The greatest opportunity for the community associations to save money on insurance costs is what can be done for the long haul. In brief, community associations must live by the old adage that "The best defense is a good offense." What does this mean? This means to take risk management seriously and to avoid being penny-wise and pound-foolish.

Hire professional, licensed community association managers. One of the best investments a community association can make is to use a qualified and experienced manager or management company. The simple truth is that good managers keep insurance costs in line. How? The community manager is also the association's on-site "risk manager." ." If the association is a condo, the preparation and use of the reserve study should be done thoroughly and routinely. Provide this to the insurer each year, letting the insurance companies know that everything that can be maintained is being maintained. Does the community manager know whether the association is in compliance with all ordinances? This will be a factor to defend any type of liability action. The biggest concerns of insurers are life safety issues. If the manager can present how these issues are addressed and managed prior to being asked, the insurer will be able to take this into consideration while underwriting a risk.

Pay attention to post-claim management. Many community associations fail to take advantage of lessons learned. Although not every line of insurance looks at claims t he same way, there are some recommendations that can help limit substantial increases due to claims. No association, regardless of how well run it is, is immune from claims. However, once a claim occurs, the manner in which the association responds and what action is taken to avoid similar claims from happening again becomes an important issue. In the Directors and Officers (or the employee, dishonesty/crime) context, this is critical. If there is a claim due to a dysfunctional board, outdated governing documents, or a lack of internal controls, the associations should take the steps to correct the situation immediately. Retain counsel to update governing documents. Put internal controls in place for the handling of association funds. Organize board training. Have counsel attend board meetings. It is important not only to take these steps, but also to share them with the carrier.

In conclusion, there is no easy way to reduce the costs of insurance. The key is to make sure the association has what it needs, no more or less. In addition, the association needs to take all affirmative steps to obviate the need for insurance and encourage risk management.

Joel Meskin, Esq., CIRMS is vice-president of community association products with McGowan Program Administrators.