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# COMMON

## INTERESTS

### Association Insurance & Safety



INSIDE:

**Community Association Management:  
A Job Not Without Risk**  
**Security for Your HOA**  
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# COMMON INTERESTS

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# CAI Announces the Newest Recipients of the Professional Community Association Manager (PCAM) Designation

**C**ommunity Associations Institute (CAI), the leading international authority in community association governance, management, and education, is proud to announce that 13 CAI members have earned the Professional Community Association Manager (PCAM) designation, the world's most prestigious and respected credential for association managers. Today, nearly 3,000 managers now hold this significant industry recognition, which was first awarded in 1982 to 17 managers.

After several years' experience as professional community association managers, candidates for this highly respected designation successfully completed all of CAI's 200-level Professional Management Development Program (PMDP) courses and participated in an arduous Case Study—the final step toward earning this valuable credential—held March 29–30 in Colorado Springs, Colo.

The PCAM Case Study is an all-inclusive examination of a community association, commonly referred to as a homeowners associations (HOAs) and condominiums. The exam combines classroom discussions with an extensive on-site inspection. During the Case Study, PCAM candidates explore in depth the administrative procedures, legal documents, and communications of a designated community. Each candidate must then successfully complete a comprehensive written analysis of his or her observation during the Case Study.


According to the 2017 Community Association Manager Compensation and Salary Survey, released in November by the Foundation for Community Association Research (FCAR), high-rise managers who hold a PCAM designation earn an average annual salary of \$97,664 compared to \$92,171 for those without the designation; on-site managers with a PCAM designation report an average salary of \$95,618 compared to \$61,475 for those without.

Like other CAI members who have achieved this credential before them, all of the new designees have dedicated themselves to becoming experts in community association management and operations and have committed to abide by the high standards of CAI's Professional Code of Ethics.

"Today, with six out of every 10 new homes built in a community association, it's essential that these communities are managed by highly trained and qualified community association managers," says Thomas M. Skiba, CAE, CAI's chief executive officer. "We believe the PCAM designation is a remarkable achievement that takes years of dedication and commitment to earn. Congratulations to CAI's newest class of PCAM recipients."

The following candidates received the PCAM designation:

Michelle Boeck, CMCA, AMS, PCAM  
Gina Holbrook, CMCA, AMS, PCAM  
Susan Kristin Horton, CMCA, AMS, PCAM  
Jonathan Jacobson, CMCA, AMS, PCAM  
John Kadin, CMCA, AMS, PCAM  
Jacob Marshall, PCAM  
Cindy Lynn Martin, CMCA, AMS, PCAM  
Joel McDonnell, CMCA, PCAM  
Brendan McGreer, CMCA, AMS, PCAM  
Jamie Brasher Phillips, CMCA, AMS, PCAM  
Katy Ricabal, CMCA, AMS, PCAM  
Susan Edstrom Santos, CMCA, PCAM  
Christine Williams, CMCA, AMS, PCAM

For details on the criteria for achieving each of CAI's designations and a complete list of all individuals and businesses who have earned and maintain CAI professional credentials, visit [www.caionline.org/designations](http://www.caionline.org/designations). 



The graphic features the Rocky Mountain Chapter Community Associations Institute logo at the top, which includes a stylized mountain range icon above the text "ROCKY MOUNTAIN CHAPTER community ASSOCIATIONS INSTITUTE". Below the logo, there is a call to action: "Our chapter is on the web! 'Like' us on Facebook and follow us on Twitter for the latest industry updates, chapter news and photos from CAI-RMC events!" followed by "Have an idea for content? Share it with us in a message or tweet and it might be featured on our channels!". At the bottom, there are two social media icons: a Facebook 'f' icon next to the text "Facebook.com/cai.rmc" and a Twitter bird icon next to the text "@CAIRMC".

# What You Really Need To Know Before You File a Claim: Enacting Benefits—Inclusions & Exclusions

By Jason Venzara,  
Big Creek Roofing & Restoration, LLC

**A**s the owners of a general contracting company and roofing company, we have come across several important areas of knowledge that, we feel, consumers should be more aware of, specifically when it comes to insurance claims. We will take a macro look at the policies, claims, and some important items to be aware of. Below is an expert opinion and should be verified with your agent.

## Prior to a claim:

It is extremely important to ensure the policy is in line with the type, specific property details and coverages understood. A good agent or a public adjuster will be able to answer many of these questions when selecting a policy. Insurance is one thing that is paid for a little bit over time (average premiums with a reasonable deductible and sufficient coverage), or a large amount all at once (low premiums, a high deductible, and poor coverage). One way of thinking of it is a budget to replace an item (roof) and whether the proper amount of funds is being 'saved' until the item needs replacing.

A baseline of the current property condition established by a qualified contractor will help to understand the useful life (UL) and remaining useful life (RUL) to establish accurate replacement budgets. Contractor selection should begin before the need arises and cost should be a small determining factor, as 'you get what you pay for.' Past references should be contacted as well as third party accountability resources such as the BBB, OSHA citation records, Google, Yelp reviews, and even the Secretary of State to ensure good standing.

## Important Policy Exclusions and Inclusions (Amendments) to pay attention to:

- Ordinance of Law, or Code Upgrade: covers items that are required to be completed by the local building code and not currently existing in place. These are sometimes not included, or have limits. This can cause a large out-of-pocket expense that owners may be unaware of. Especially an older building that was completed in accordance to less stringent building codes (insulation requirements on low-slope roofing).
- Rot, mold, abatement: Though not a huge concern in Colorado's climate, this can have huge cost implications.

- Actual Cash Value (ACV) vs Replacement Cost Value (RCV): The total amount of a claim is the Replacement Cost Value. This number is depreciated a certain percent per year for the estimated age of the item in question:  $RCV - Depreciation = ACV$ . If you have an ACV Policy, you do not receive depreciation.

## Here is a roofing example:

An older low-slope roof needs to be removed and replaced. You receive a \$1,000,000 estimate from the insurance company with \$500,000 depreciation and you have a \$50,000 deductible. You receive an initial \$450,000 Actual Cash Value (ACV) check.

## Can I just keep the ACV amount?

In most policies, yes you can keep the ACV amount and not perform the repairs. However, this is a bad idea. You are not fulfilling your side of the bargain and the insurance company may: cancel the policy, any additional damages or new damages will not be covered, your property can be labeled 'high risk' with higher premiums, and after a certain amount of time you will not be able to receive the depreciation. So, this option could cost you a large amount of money later down the road.

## Can I get the work done more cheaply and keep the difference?

If you received bids, you first want to ensure the scopes are the same and apples to apples are being priced to have an accurate comparison. For an insurance claim, bids do not make sense. You want to do your diligence in selecting a contractor you are comfortable with, that they have a proven track record, and one who knows how to navigate and bill through an insurance claim. If you perform the work for \$800,000, this becomes the new Replacement Cost Value and the Deductible is taken out of this amount. If you don't tell the insurance company the repairs were done for less than the \$1,000,000 estimate and keep the remaining funds, this is defrauding the insurer. ⬆

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*There is so much more to this conversation than we could write in such a short article. Let's continue the conversation at our forum later this year and on our Latest News tab on our website [www.denvercoroofers.com](http://www.denvercoroofers.com)—6145 Broadway Suite 2, Denver, CO., 80216, (720) 309-9722.*





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**Community Association Management**

# **A Job Not Without RISK**



**A Brief Q&A On How  
to Best Protect Yourself**





**Tressa Bishop,**  
**MBA, CIC**  
CB Insurance

**A** community association manager's job is rewarding, but it's not without risk. Today's management professionals do much more than just focus on taking good care of the properties. They also act as accountant, human resource manager, complaint mediator, law enforcer, property inspector, real estate guru, insurance consultant, and much more. With such a wide array of responsibilities, many community managers worry about whether they're protected against mistakes or oversights that could come back to haunt them in the form of lawsuits. Errors and Omissions

(E&O) and Commercial General Liability (CGL) insurance help protect against financial losses that are directly related to mistakes made by managers.

## How can I be sued even if an error was truly a mistake?

Let's be honest, anyone can be sued for just about anything. Even though you do the best for the associations you serve, there may be situations where you find yourself in a bit of hot water whether you did what is alleged or not. This is why the liability policies all include defense language similar to "the insurer will defend whether the allegations are frivolous, false or fraudulent." Imagine each of the following scenarios:

- Manager had a vehicle towed at an association they manage. Owner sued claiming that the vehicle was towed in violation of the declarations. They also added that you discriminated against them, because they were a minority, old or disabled.
- A tenant fell and was injured on an uneven walkway. The investigation revealed that the manager hired an unlicensed contractor to install it. The tenant sued the manager to cover medical costs and lost wages associated with the injury.
- The same scenario as above, but the unlicensed contractor was also uninsured and the subcontractor was injured on the job.
- A manager is accused of mismanaging an association's funds following a construction defect lawsuit settlement. The HOA is currently wrapping up an accounting audit and is planning to sue the management company.
- The manager's employee walked away with a laptop that included the personal data of all its managed associations.

No matter how well trained, experienced, and meticulous managers strive to be, there's a good chance that one day they could still be sued. Mistakes happen. Not only do mistakes happen, but challenging association members happen. There's no way to guarantee that you'll ever be fully protected from risk.

## I have an "indemnity agreement" or "hold harmless provision" in my management agreement with the association. Doesn't that mean I'm already covered?

No. Indemnity agreements and hold harmless provisions under general liability policies typically only cover bodily injury, property

damage, personal injury, and advertising injury claims. Further, they generally require the manager to spend his or her own money to defend a lawsuit or a claim, then apply for reimbursement later. There's no guarantee that the reimbursement will ever be received. If this should happen to you, you could drain your bank accounts with no promise of recouping the costs. The less considered unintended consequence is that not only will you be seeking indemnity to recover your costs, but you will be seeking it for "your" mistake from "your" client.

**"With such a wide array of responsibilities, many community managers worry about whether they're protected against mistakes or oversights that could come back to haunt them in the form of lawsuits."**

## I'm already covered through the community association's Directors and Officers (D&O) liability policy. Do I really need E&O insurance?

In Colorado, Community Association Managers (CAMs) are licensed. All licensed professionals require E&O insurance and, if you do not have it, it is imperative that you disclose that to your client or prospective client in the management agreement or other notice.

Many management professionals don't realize that D&O policies don't provide coverage if the community association itself sues them. You would need to purchase a separate E&O policy to protect yourself against this circumstance.

You should keep in mind that not all D&O policies are the same with respect to coverage for management professionals. Some do not provide any coverage for the CAMs, some only provide coverage pursuant to the express services stated in a written management agreement, and some provide coverage as long as there is an agreement, whether written or not.

If you own a management company that has employees, you should be aware that there is no D&O policy on the market that will provide coverage for a management professional when their employee brings a claim against the management professional or company. Employment practices liability coverage is needed to protect against this type of exposure (this can be added to an E&O policy).

## Why do I need CGL coverage? Isn't E&O coverage enough protection?

Managers need both Commercial General Liability (CGL) and professional liability (E&O) coverage. The CGL policies that the associations carry naming the manager/management company as an additional insured have exclusions that may prevent the manager from being covered. Specifically, most CGL policies include a professional services exclusion.

The association CGL is there to protect the management professional if its services or lack of services caused a third party bodily injury (BI) and/or property damage (PD). Most E&O policies will expressly exclude BI and/or PD, although there are a few policies that provide “contingent BI/PD” when the damage arises out of the management professional’s act, error, or omission.

## Are all E&O policies the same? Can’t I just purchase the cheapest policy?

Errors and Omissions insurance is designed to protect managers against claims such as discrimination, wrongful eviction, class action suits, hiring unlicensed contractors, and other actions. Just like all insurance, the cheapest policy is often the cheapest policy. Not all policies are created equal, so below are some questions to ask when shopping for an E&O policy:

- Does the policy include non-monetary relief, investigations, or regulatory proceedings?
- How long do I have to report a potential claim? 30 days, 60 days, 90 days?
- Does the definition of loss in the policy include punitive damages?
- Does the policy include class action lawsuits?
- Does the policy include tenant discrimination claims? Is this included or extra?

- Does the policy include independent contractors?
- Does the policy include employment practices coverage and if so, is it included or is it extra?
- Does the policy include contingent bodily injury and or property damage coverage?

Unfortunately, we live and work in a society that’s increasingly susceptible to legal complaints. And, like other service professionals, managers must wear multiple hats, with no room for mistakes. Therefore, managers should view Commercial General Liability and Errors & Omissions insurance the same as any other cost of doing business. These policies should give you comfort in knowing that you have protection against claims of wrongdoing - no matter how careful you are in trying to prevent them. ⬆

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Sources include:

<http://mcgowanprograms.com/wp-content/uploads/sites/2/2016/03/EO-Exposure.pdf>  
<http://www.ihginsurance.com/Pages/Community-Manager-Errors-Omissions-Coverage.aspx>

*The information in this article does not change or amend any actual policies. The terms, conditions, exclusions and endorsements of policies will apply. Every policy and every claim is different.*

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# Ignorance is not **Bliss**

**Why Are  
Community  
Association  
Volunteer  
Board  
Members  
Sued?**



By Joel W. Meskin, Esq., CIRMS, CCAL Fellow, MLIS

**V**olunteer board members are often baffled and incredulous when someone challenges or complains about a decision that they have made, a rule that they have been changed, or a special assessment that they have issued. I have touched in one way or another between five and six thousand claims and/or lawsuits against community Associations and their volunteer board members. As I travel around the country, people ask me what I have been able to distill from all these claims. Without skipping a beat, I respond by telling them that “ignorance is not bliss”!

The “ignorance” I refer to is twofold. First, unit owners do not read the governing documents they have agreed to comply with prior to purchasing their home in a common interest association. In most cases, these unit owners probably do not read the governing documents until they have an issue with the board, the association or their neighbors.

**Practice Pointer 1:** read the governing documents before you buy; ignorance of the governing documents is not a defense and an association member is presumed to have read the documents he or she has agreed to when they purchased their unit.

Second, the volunteer board members turn their volunteer board position into something beyond its purpose and their authority. This is further exacerbated by the fact that these volunteer board members are often the same unit owners that have not read the governing documents.

**Practice Pointer 2:** Each association member who wants to join the board should be required to confirm that he or she has read the governing documents before agreeing to become a board member.

What comes to mind each time this twofold dilemma comes up is a pearl of wisdom my father used to share with me. He would say “why do people never have time to do things right in the first place, but always have time to fix them”?

**Practice Pointer 3:** Each board should have an annual board training, even those who have been on the board. The value of an annual training far outweighs the cost, if any, as well as the effort. Both items will lead to both monetary and time savings when the board knows how to operate the board. The National CAI has great resources as well as on demand video courses on training. There is no excuse for not taking the time to prepare for a board position.

I tell boards and managers that in the normal course a board meeting should not take more than an hour. Yes, certain issues create exceptions, but that should in fact be an “exception.” In response, I often hear “yah, right.” The key is for board members to understand their obligation, responsibility and treat the management of the association as the business it is.

The board is a body comprised of individuals that is charged to manage the association pursuant to the by-laws and relevant statutes. The board is a body that makes decisions and policies and delegates to the individual who will carry out the delegated matter. When a board member exits the properly noticed board meeting, they have NO authority to act in their capacity as a board member except pursuant to the delegated authority expressly given them by the board during a properly noticed board meeting, or proper consent to act without a meeting. Remember, each board member has “one” vote whether he or she is also an officer of the association such as the president, vice president or other.

Most delegated tasks by the board are given to the community association manager if there is one, or employees. Sometimes, there is no CAM or employee, and the action is delegated to a volunteer board member or other association member volunteer. In that case, the board member is carrying out the delegated action as a “volunteer” and not in his or her capacity as a board member.

**Practice Pointer 4:** Remember, a board member is not an employee, and apathy is not a defense. If the board member says I have to do it because no one else will, there is a deeper issue that must be addressed. If no one will step, the board should hire a management company or an employee. If the board is not willing to do that, then the board should go to court and seek a receiver which will end up costing the board and the association the money they did not otherwise want to spend. At the end of the day, the board is charged with protecting the association’s assets and must take the steps to do so.

In addition to understanding the role as a board member, the following are additional practice pointers that will help simplify and shorten a board meeting and mitigate claims.

The board members must open, read and prepare questions, if any, on the issues to be addressed on the agenda. The single biggest waste of time in board meetings are board members who come unprepared and spend time getting up to speed during the meeting.

Adopt a form of Roberts Rules of Order and stick to them. Even if the board are close friends and the use of rules seems awkward, the day a rogue unit owner or someone not playing with a full deck shows up, having in place a consistent set of rules will be worth

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its weight in gold. If rule are first used with respect to a specific individual, the door to discriminatory application of rules is opened. These rules should include a limited time for speaking by unit owners at a board meeting.

Have a prepared agenda and stick to the agenda. If there are items that are not on the agenda, they should be tabled for another meeting.

Do not tolerate a lack of civility or an individual who insists on disrupting a meeting. Do not engage that individual and adjourn the meeting to discuss further action with counsel. Counsel may need to seek a court order. A court may require a security guard and put the cost on the disrupter.

Just because someone asks a question does not mean an answer must be given. There may be questions out of order or otherwise inappropriate. This is why an established set of rules are warranted.

Be sure to have open meetings to avoid any appearance of secrecy or conspiracy.

Prepare a short video regarding “life in our community.” This can identify the governing documents, identify how the association is managed and who is eligible for the board and rules they may be unique to this association or to life in a common interest development.

Understanding the board’s duties and obligations and making sure unit owners receive, read and ask questions about governing documents is the best risk management tool the association can use. ⬆

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FRIDAY, NOVEMBER 9, 2018

# STRENGTHENING OUR ROOTS



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# Security for Your HOA



## Beyond the Gate





**Michael Daley**  
Allied Universal

Lately, it has become unsettlingly common to wake up to stories of mass shootings, regular civil disobedience, violent robberies, and our nation’s ongoing opioid epidemic.

In Colorado, we have been shielded from some of these national issues for many years. However, as our population continues to grow by leaps and bounds, these problems are hitting home much more often. According to an article from the Denver Post, our statewide population exceeded 5.6 million people in 2017—ranking Colorado on the top 10 list of fastest growing states.<sup>1</sup>

Population growth and surges in crime are not limited to city dwellings and urban areas. In fact, they spill over to areas where you may least expect. For example, most associate the safety for their HOA with security at the entrance gate, periodic patrols by the local police or shared vehicle patrols provided by a common contract security company. But what about at HOA Meetings that may be held at an offsite location?

When was the last time you attended a large group function, such as a town hall meeting, campaign rally, city hall meeting, or school board meeting, and did not see a security or police presence? Violence and unrest behaviors are not subject to any one particular socioeconomic group, so it is inherent for leaders to also account for the safety and security of their attendees in these situations as well. After all, these meetings typically dictate policy or changes to individuals’ lives, property, or employment and they can get very intense.

From your owners to your association lawyers and all the way to your developers, a wide range of audiences have a vested personal interest in the meetings as well as their outcomes. A study of HOAs and Condo Associations over a 20-year span revealed that more than 40 percent of board members claim they have been threatened with physical violence at one time or another.<sup>2</sup> When dealing in matters of property and finances with large groups of stakeholders, it is incumbent on the HOA board to provide adequate safety measures for board members, stakeholders, and owners.

### What can you do to strengthen your association’s security posture at gatherings?

- **Develop a relationship with your security company.** If you don’t have on-site security, engage a firm with an established understanding of residential security to discuss the security for your association and learn the process for requesting temporary coverage for your HOA events and meetings.

- **Establish a safety and security committee to discuss security concerns and coordinate coverage for large public gatherings.** Involve this committee with permit issuance and renting of common areas of your association (clubhouse, pool, etc.)
- **Strengthen your relationship with the local police department.** Don’t allow calls and incidents to be the first and only times your partners in law enforcement are onsite.
- **Involve your residents and owners—make safety and security EVERYONE’s priority.** Building a force multiplier effect in your community will make everything in it a harder target.
- **Educate your association by letting them know safety and security are a priority.** Engage with your partners in security and law enforcement for educational materials, email information, safety tips and best practices to share with your association.
- **Protect your meetings and association by implementing a proactive security policy for each meeting and establishing smart security measures.**

Whether your community needs an off-duty police officer at meetings, a private security team at your entrance or a vehicle patrol service, make sure there is a plan in place and communicate it well. Give your stakeholders the tools and knowledge to participate in safety awareness so they too can become a part of the solution in ensuring an environment that is well protected beyond the gate. ⬆

*Michael Daley is Allied Universal’s Business Development Manager for Colorado, holding the Cultural Institution Protection Manager certification from the International Foundation for Cultural Property Protection (IFCPP) as well as the Terrorism Liaison Officer (TLO) designation from the Department of Homeland Security (DHS).*

<sup>1</sup> <https://www.denverpost.com/2017/12/20/colorado-population-2017/>  
<sup>2</sup> <http://www.realtormag.realtor.org/daily-news/2012/09/18/hoa-meeting-turns-deadly>



# CYB

## Big Risks



**April Ahrendson**  
Mutual of  
Omaha Bank

**S**tories of cybercrime continue to make front-page news, and companies of all sizes are consistently impacted by cyber theft and data security breaches. According to the Breach Level Index, over 5 million data records are lost or stolen every day.

Each theft causes headaches for consumers and businesses alike, as well as reputational damage for businesses, and often times, financial loss. Cybersecurity Ventures estimates that cybercrime will cost the world \$6 trillion annually by 2021.

While not immune to the impacts and consequences of a data breach, multi-billion dollar organizations employ legal, security, and technical experts while utilizing vast resources to limit potential liability. Small businesses must also prepare for potential attacks from a growing number of cyber predators. The impact of cybercrime on small businesses can be devastating. Trustwave® reported that 71% of attacks target small businesses. Within 18 months of a breach, 80% of small businesses go out of business.

It is impossible to be 100% secure from cyberattacks, but businesses can take steps to minimize their risk. Education is a great first step in protecting your business.

It is important that business owners educate their employees on the dangers and potentially serious consequences of cybercrime. The knowledge that such theft can cripple a business, thereby affecting an employee's own livelihood, is an added incentive to remain vigilant. Involving the financial institutions of the business can also be beneficial. Many banks are willing to provide in-house education seminars to companies as a way of keeping all levels of the organization well informed. There are several online resources available to educate small companies on protecting their business from cyberattacks. The following are a few examples of resources available for small businesses.

- [Forbes Finance Council—How to Protect Your Business From a Data Breach—Seven Key Steps](#)
- [Small Firm Cybersecurity Checklist](#)
- [SBA Cybersecurity for Small Business Course](#)



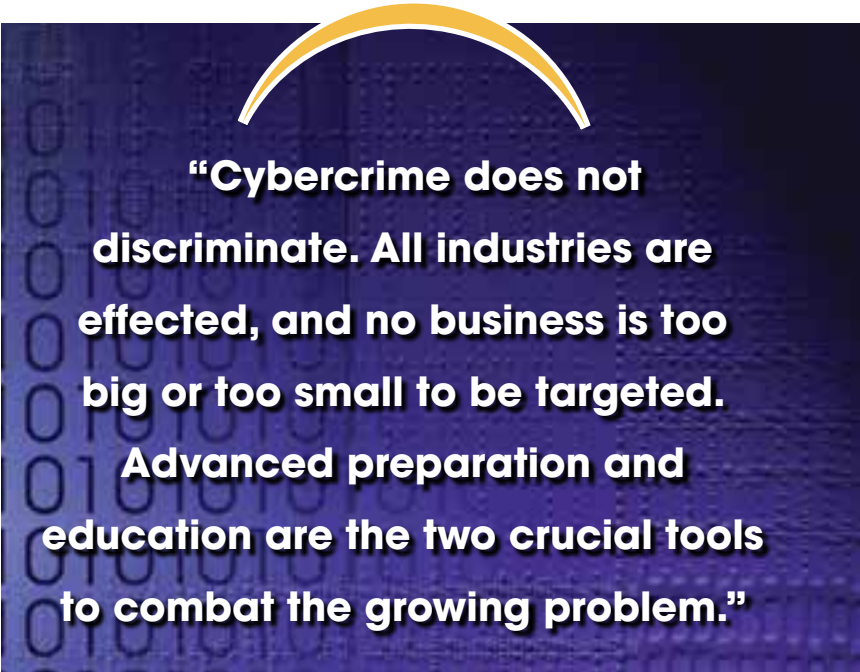
# ERC RIME

## for Small Businesses

In addition to education, business owners have the option of investing in cyber liability insurance as a way to proactively protect their business from potential cyberattacks. Cyber liability insurance often covers the cost of business interruption, client notification, and even hiring a public relations firm to repair damage to a company's reputation as a result of the attack. Reputations are critical in the community association industry. The cost of cyber liability insurance is often far less than the potential monetary loss due to a tarnished image.

Cybercrime does not discriminate. All industries are effected, and no business is too big or too small to be targeted. Advanced preparation and education are the two crucial tools to combat the growing problem.

The views and opinions expressed in this article are those of the author(s) and do not necessarily reflect the views of Mutual of Omaha Bank. For any matters concerning your specific needs and objective, you should seek the professional advice of your own independent legal counsel, insurance advisors or other consultants. ⬆



**“Cybercrime does not discriminate. All industries are effected, and no business is too big or too small to be targeted. Advanced preparation and education are the two crucial tools to combat the growing problem.”**



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# Common Element **CAMERAS**



**Is Somebody  
Watching You?**





**David A. Firmin**  
HindmanSanchez

**G**rowing up in the 80's, I always think back to the immortal words of Rockwell when asked about Camera Systems. In his highly techno music he stated,

*"I always feel like somebody's watching me. And I have no privacy. Woh, I always feel like somebody's watching me. I can't enjoy my tea."<sup>1</sup>*

With the popularity of AirBnB, Home Away, and VRBO, which places a vast number of unknown people in the community, along with the general decline in the cost of camera systems, Associations are beginning to investigate the usefulness of camera monitoring systems. However, prior to investing in a camera system, the Association should explore and answer the following questions.

### What is the Purpose of the Cameras?

Absent from the above is the word "security". By definition, camera systems, unless actively monitored, are passive in nature. They do not provide security but rather only provide passive deterrence of an act before it happens and after the fact evidence to allow the Association to charge any repair costs to responsible parties. Cameras alone will not provide "security". In multiple reports from both the UK and the US there is limited effectiveness of reducing property crimes.<sup>2</sup> However, there are a number of other studies in which police departments have reported a significant drop in crime to both person and property.<sup>3</sup> Depending upon which side of the story you accept, what can't be argued is that the camera systems are passive in nature. Boards need to be very clear as to the purpose of the camera; is it an attempt to deter damage or charge those after the fact? Once this point is clear, the Association may design a system to maximize the benefits to the community.

### To Sign or Not to Sign— Does it Defeat the Purpose?

In order for cameras to be an effective deterrent, people must know they exist and that there is a high probability their behavior will be caught on film (figuratively speaking). However, what type of signage should be used? In order to avoid an assumption of unwanted liability, the signs must indicate that the cameras are a passive monitoring system or closed circuit system. Colorado law recognizes an assumption of a duty. By installing "security cameras", the Association may be assuming a duty to protect owners, their guests, tenants, and invitees from not only property damage but damages to persons and health. If the Association assumes a duty to protect, the Association must then act with the same standard of care, diligence and attention as a reasonably prudent person in a similar situation. Meaning that the Association would be required to regularly monitor the system, ensure it is in working order and be reviewed on a regular basis. With the fact that most managers don't review camera footage and Boards serve volunteer positions, the Association may regularly fail at the standard of care involved

in properly maintaining a security system versus a monitoring system. The Association should take great care in avoiding this liability.

### Do the Cameras Constitute an Invasion of Privacy?

One of the major concerns raised on a routine basis is the question "Do cameras act as an invasion of privacy?" As a general statement, no, however, as with every question asked there is always an "it depends" caveat. As a general statement, there is no expectation of privacy within the common elements of a community association. Colorado courts have recognized the tort of Invasion of Privacy related to Intrusion upon Seclusion. Intrusion of seclusion is the offensive or objectionable intrusion upon the seclusion or solitude of another.<sup>4</sup> When placing the cameras in the common elements, the Association should take great steps to ensure that the cameras are not pointed into any of the individual units, common element bathrooms, dressing rooms and in general around pool and hot tub areas.

**"When making a decision to install a monitoring camera system, the Association needs to balance the cost of the system against its intended purpose and the potential privacy rights of owners."**

Furthermore, most of the actionable torts related to invasion of privacy relate to the disclosure or publication of the footage obtained from the cameras. Associations should adopt monitoring camera policies that clearly set the following: (i) under what circumstances is the footage reviewed? The Association should limit the review of camera footage to situations in which the owner or requesting party shows a need, such as damage to their Unit to determine who had access; (ii) who may request to see the footage? Is the footage open to owners, tenants, Police to review? (iii) How long is the footage kept? Where is the footage kept? What security precautions are taken to protect from unauthorized disclosures? What steps need to be taken in order to protect footage once the need for the footage is determined? As keeping the footage, to the extent possible, ensures that the Association steers clear of invasion of privacy claims, the policy should be strictly adhered to as well as routine maintenance of the system.

When making a decision to install a monitoring camera system, the Association needs to balance the cost of the system against its intended purpose and the potential privacy rights of owners. However, by working through these issues, the Association will be able to best design a comprehensive program to protect owners and the community and we can finally reply to Rockwell's statements that he "wants his privacy" with a resounding, you got it... ⬆

1 *Somebody's Watching Me*, Rockwell ©2004 Motown Records  
2 [www.privacysos.org/camera\\_studies/](http://www.privacysos.org/camera_studies/)  
3 [www.reolink.com/do-home-security-cameras-deter-crime/#evidence](http://www.reolink.com/do-home-security-cameras-deter-crime/#evidence)  
4 See *Doe v. High-Tech Institute, Inc.*, 972 P.2d 1060

# WHAT THE

## How to Choose a Contractor Following a Storm



**Mike Barclay**  
Reconstruction  
Experts

**T**he spring months of May and June typically bring severe weather to Colorado. Hail can cause catastrophic damage to an HOA community. Often after a storm, many community association managers are left wondering how to handle a claim. The common thought is to “get 3 bids.” Getting 3 bids is fine for a conventional HOA construction project, but NOT for an insurance claim. Bidding out insurance work is a disservice to your HOA.

When an HOA suffers an insurance loss—such as fire, flood, or storm damage- the best solution for the community association manager is to help the HOA select a qualified general contractor and forego the bidding procedure. By requesting 2 or 3 bids from different contractors, the manager runs the risk of undercutting the scope of work to which they are entitled. Scope of work is a crucial element when describing how insurance companies compensate policy holders to restore their property to pre-loss condition, as stated in most policies. Most people don't understand or aren't aware that insurance companies all use the same software to determine pricing. It's called Xactimate. Xactimate has a predetermined agreed upon price for every aspect of restoration, dictated per region, which is updated regularly to reflect current market value



# HAIL!

included in the comprehensive scope of work. Scope gap and/or scope lean could easily cause premature failure and construction defect issues in the future.

When selecting your contractor, ask 2-3 general contractors to present/interview with your HOA Board of Directors. Simply ask the contractors the following questions:

1. **What's your experience with HOA hail claims?**
2. **What's your insurance coverage?**
3. **How would you approach our project?**
4. **Do you have HOA references?**

These simple questions will help your board choose the most qualified contractor.

The storm on May 8, 2017 caused \$1.4 billion in damages in Colorado according to the Denver Post. An estimated 200,000 claims were filed. This made it Colorado's costliest storm ever. Be wary of out-of-state "storm chasers" looking to get a piece of the pie. When a large hail event hits Colorado, many contractors from surrounding states head our way. Often these contractors are not qualified to handle large HOA insurance claims and perform subpar work that leads to roof leaks. And once they get their money, they are gone. Often they do not honor their promised warranties and HOAs are left footing the bill to fix their shoddy work. Bottom line, your best bet is to keep it local.

Community association managers need to be aware that insurance fraud has many faces. Common types of fraud are:

1. **The contractor offers to pay for the HOA's deductible**
2. **The contractor offers to trade advertising for the cost of deductible**
3. **The contractor offers a coupon or voucher towards the HOA's deductible**
4. **The contractor offers to split their profit with HOA**
5. **Contractor promises kickbacks**
6. **HOA bids out project and pockets the rest of the money**

Beyond finding the right contractor, focusing on a comprehensive scope and not falling victim to fraud, community association managers also have juggle helping their HOAs fund their deductibles. Most insurance companies that offer insurance to HOAs no longer offer flat fee deductibles of \$10K, \$20K, etc. Instead, the deductibles are percentage based. They can be 2%, 5% and even 10% of the insurance company's estimated replacement value of the entire property. This is not to be confused with the amount of the claim or the market value of the property. Many times a homeowner's HO6 Policy will cover their portion of the deductible. Many community association managers regularly urge homeowners to purchase HO6 coverage.

Insurance loss- such as fire, flood, or storm damage is a certainly a reality for Colorado association managers and HOAs. The next time one of your communities is dealing with a claim, remember-qualify and select your contractor and focus on a comprehensive scope and not 3 bids. In a time when deductibles are high, your HOA will thank you for getting them everything they deserve. ⬆

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*Mike Barclay is the Colorado Regional Vice President for Reconstruction Experts, and has over 20 years of reconstruction and restoration experience. Mike manages the overall success of the Colorado Branches by pushing Reconstruction Experts towards the highest level of professionalism and expertise.*

of labor and materials. What this means is price doesn't matter when it comes to your claim. Scope of work, however, does. When it comes to price, the HOA only needs to cover their deductible. Sometimes HOAs think they can bid out their insurance work and pocket the "extra" money. This is fraud.

A good general contractor will focus on creating the most comprehensive repair plan, while the competitive bid process focuses on price and quickly becomes a race to the "bottom-of-the-barrel." When contractors know they will be placed in a competitive bidding situation, they will tend to keep their scopes to a bare minimum to keep the price low and win the job. The most frequent means of keeping a scope lean is by repairing items that would normally be replaced, and these items should have been



# Anatomy of a HAIL CLAIM



**Derek O'Driscoll,**  
CPPA, SPPA, AIC  
Impact Claim  
Services, LLC

Colorado ranks #2 in hailstorm property losses,<sup>1</sup> with estimated losses exceeding \$2.286 billion over the last five years.<sup>2</sup> Subsequently, the dynamics and requirements for proper recovery after a hail and/or windstorm have evolved. It has never been more challenging for Colorado Community Associations to fully recover all amounts owed under an insurance policy following a damaging hail or wind storm.

The goal of every insured, in the event of a loss, is to recover all money properly owed under its insurance policy as quickly and painlessly as possible, so

damaged property can be repaired. When explaining the anatomy of a hail claim to policyholders, I use a simple analogy of the two “hurdles” that must be jumped in order to fully recover after suffering a hail and/or wind storm loss. Those two hurdles are the “Coverage” hurdle and the “Amount of Loss” hurdle. Both hurdles uniquely affect the claims investigation and adjustment processes, as well as the settlement or dispute resolution methods available to an insured community in the event of a disagreement with their insurance carrier.

## The Coverage Hurdle

Simply explained, overcoming the coverage hurdle is accomplished upon the acknowledgement by an insurance carrier that a loss has occurred and caused damage to property, that the damage occurred during the insurance company’s policy period, and that the loss was caused by a peril that the applicable insurance policy insures against.

The coverage hurdle is overcome when the carrier acknowledges a single dollar is compensable under the policy for the given loss, even if the dollar value of that damage is below the deductible. Overcoming the coverage hurdle can be as simple as an adjuster inspecting the property and confirming there is coverage due under the policy, or it can require an exhaustive investigation by the policyholder and experts to corroborate the cause and extent of the loss and that coverage is due under the policy. For a policyholder, establishing the cause of loss and overcoming the coverage hurdle frequently requires a comprehensive investigation utilizing the services of specialized experts such as Forensic Meteorologists, Forensic Engineers, Building Consultants, Roofing Consultants, Contractors, and scientific laboratory testing.

One of the most common defenses of insurance companies in a hail claim investigation is what the industry refers to as “post loss underwriting”. That is to evaluate and take into consideration the condition of the property only after a notification of loss



is provided, rather than at the inception of the policy and the acceptance of the policyholder's premium and the promise of coverage in the event of a loss. This generally goes hand in hand with the company's assertion that any observable hail damage to a building predated the inception of their company's policy period. This defense is common with insurance companies in hail claims, specifically in Colorado, due to the frequency of hail storms and the overwhelming amount of hail caused damage that goes unidentified by policyholder's on a year over year basis. This commonly leads to an insurance company identifying a historic weather event that they assert was more severe than that of the pending claim, and the subsequent attempt to place the cause of the damage on that other storm and the insurance company whose policy was in effect at that time, seemingly without limitation. Our firm has personally experienced insurance companies attempt to attribute hail damage to a storm 30 years prior to the inception of their policy.

What is important to understand is the impact of the specific type of insuring agreement in your insurance policy, on the burden of proof that must be met in order to assert any exclusion under a property insurance policy. Specifically, does the policy provide coverage on a "Named Peril" or "Open/All Peril" basis. This distinction has a direct and significant impact on who bears the burden of proof in establishing its claim and corresponding position on the loss and subsequently has a profound impact on an insurance company's attempt to "Post Loss Underwrite" a loss. It is important that an insured understand the nature of its coverage, so we encourage community associations to consult its agent, attorney or a licensed public adjuster.

There are several steps an insured can take to prepare for a possible claim due to hail and/or wind damages that can be instrumental to overcoming the coverage hurdle as painlessly and expeditiously as possible. The most critical steps are:

- **Obtain Proper Documentation of Property Conditions NOW**

Having a full analysis of your property done by a well-trained insurance claims professional will ensure that all facts and evidence that can become of material significance are fully and properly preserved into evidence. This should include some baseline testing of the building envelope such as moisture surveys, leak mapping, and complete photo documentation. Having such an evaluation done by typical contractors and/or maintenance professionals will not suffice.

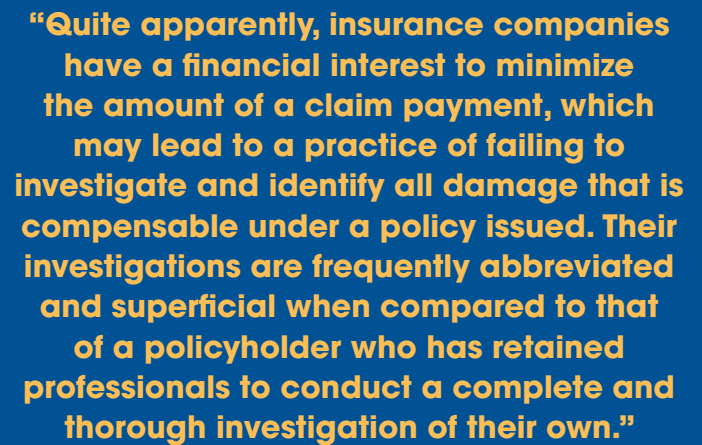
- **Obtain Prior Insurance Inspection Reports**

Request a copy of any property inspection reports and underwriting reports that have been performed by your insurance company, agent or broker, to include photos. These reports can provide crucial evidence in support of a community association's claim, however they can be nearly impossible to obtain following a notification of loss, so be proactive and get them now.

The inability to overcome the coverage hurdle relegates a policyholder to resolving a claim dispute in a Court of proper jurisdiction, as coverage disputes cannot be adjudicated in any other venue. Subsequently, the coverage hurdle is the most important to overcome in the pursuit for a fair and complete settlement by an policyholder in the most painless manner possible.

## The Amount of Loss Hurdle

Overcoming the amount of loss hurdle is the process of identifying and agreeing to the scope of the covered damage and the corresponding costs associated with completing those repairs. In my experience, this is where the majority of claims encounter disagreements, and conflicting positions between policyholders and insurance companies arise, for two prevailing reasons; The first is failure by an insurance company to fully investigate a loss with a view to identifying all damage potentially covered, sometimes combined with employment of outcome-oriented experts, consultants and contractors, who whether intentionally or unintentionally, undervalue the extent of damage and the amount of loss.



**“Quite apparently, insurance companies have a financial interest to minimize the amount of a claim payment, which may lead to a practice of failing to investigate and identify all damage that is compensable under a policy issued. Their investigations are frequently abbreviated and superficial when compared to that of a policyholder who has retained professionals to conduct a complete and thorough investigation of their own.”**

Quite apparently, insurance companies have a financial interest to minimize the amount of a claim payment, which may lead to a practice of failing to investigate and identify all damage that is compensable under a policy issued. Their investigations are frequently abbreviated and superficial when compared to that of a policyholder who has retained professionals to conduct a complete and thorough investigation of their own. These complete and thorough investigations frequently expose extensive omissions and oversights on the part of an insurance company. I cannot begin to quantify the amount of time our firm spends overcoming these types of superficial or misleading investigation results and expert analyses, but it is without question the overwhelming majority of our time spent in most hail and/or wind claims.

In addition to incomplete and truncated investigations, insurance companies are the faucet by which many contractors, engineers and construction consultants rely for a steady stream of business. The service providers are commonly beholden to these insurance companies and will do what they must to keep insurance companies happy. This usually means investigation results, scopes of repairs, and estimates that serve an insurance company's needs, but are rarely congruent with the coverages purchased by a policyholder or compliant with the general best construction practices in the industry. This factor also frequently contributes to suppressed claims payments and disputes regarding the extent of damage and the amount of loss.

## Dispute Resolution

Unlike a coverage dispute, which again can only be put before a Court, a dispute regarding the amount of loss can be resolved in several alternative fashions. Most policies of insurance outline an alternative dispute resolution method called Appraisal. In an appraisal, both the Insured and Insurer select and retain an appraiser, who will take a fresh look at the claim and come to their own independent conclusions of the "Amount of Loss". Both the chosen appraisers will also select an Umpire, who will be the tiebreaker in any disputes that the Appraisers cannot resolve amongst themselves. The Appraisal process is a powerful alternative dispute resolution method, which is intended to be a faster and less costly remedy when compared to litigation. An appraisal also puts an "amount of loss" determination into the hands of industry professionals – Insurance Adjusters, Public Adjusters, Engineers, Contractors, Lawyers and Judges – which generally leads to a more accurate determination of the amount of loss, when compared to that of a jury of civilians unfamiliar with insurance principles and construction requirements.

In addition to appraisal, disputes regarding the amount of loss can be resolved through mediations or arbitrations, which can also be a more expedient, inexpensive, and accurate remedy when compared to litigation. This is why the Coverage hurdle is so important to cross over when dealing with a hail and/or wind claim.

## Summary

Insurance policies are complicated, as are their provisions and how they impact the claims investigation and adjustment process, the duties and obligations of the insured in the event of a hail and/or wind loss and the methods for resolving disputes.

Most community associations do not appreciate that under an insurance policy it is incumbent upon you to present a claim for damages to your insurance company in the event of a loss; that is to say, it is your responsibility to tell your insurance company how much it owes you and why. Understanding how varying types of insuring agreements and forms affect the burden of proof, how a community association's governing docs and insurance policy integrate with coverage, and how principles of insurance drive the amounts that are due to a community in the event of a hail and wind loss requires extensive experience and specialized training. It is imperative to proper recovery and ensuring both claim hurdles are overcome, that policyholders secure independent evaluations from specialized professionals following a hail or wind storm, rather than relying solely on your insurance company to tell you what they owe you.

Never assume that your insurance company has conducted a thorough, complete and fair investigation. No matter how long their investigation takes, how many consultants or experts they retain, how polished their expert's reports are, or how well thought out their position appears to be - **CONDUCT YOUR OWN INVESTIGATION!** ⬆

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*Derek O'Driscoll is a Licensed Public Insurance Adjuster, and the President of Impact Claim Services, LLC, a Colorado based public adjusting, claims management and roof consulting firm. Derek and his firm specialize in securing fair and complete recoveries for property owners on large complex losses caused by hail and wind, specifically to commercial and multi-family properties throughout the country. Learn more about them at [www.impactclaimservices.com](http://www.impactclaimservices.com)*

- 1 According to a 2016 report by the National Insurance Crime Bureau.
- 2 According to the Rocky Mountain Insurance Information Association, reference of 2015 estimated cost calculations based on the Consumer Price Index.

## Marcus Dumville Joins Orten Cavanagh & Holmes, LLC

Marcus had his own law practice as a solo attorney before joining the firm as a Community Association and litigation attorney. Marcus obtained his J.D. from The University of Oklahoma College of Law. He is a member in good standing of the Colorado Bar Association, the RMC of CAI and the Southern Colorado Chapter of CAI. Marcus also earned a BSBA in Marketing from The University of Denver Daniels College of Business.

Outside of practicing law, Marcus enjoys everything that life in Colorado has to offer, including snowboarding, hiking, attending concerts at Red Rocks Amphitheater and basketball. Marcus was raised overseas in the small town of Udhailiyah, Saudi Arabia where he developed a deep love of traveling the world. He is also passionate about reading, philosophy, politics, and the Los Angeles Angels of Anaheim. "We are excited to welcome Marcus into our HOA law firm. His skills and experience as a litigator will be a great addition to Orten Cavanagh & Holmes LLC," said Managing Partner Jerry Orten.

Orten Cavanagh & Holmes, LLC founded in 2005. The mission of the firm is to provide communities and associations with timely, value-oriented legal services. For more information, visit <http://www.ochhoalaw.com>.





*Baby Einstein's Creator*

# Julie Clark



Julie Clark wants to live in a world where work is for fun, cookies are for breakfast and the most frequently heard sound is children laughing. She's a mom, a teacher, the creator of Baby Einstein and the founder of a brand-new company called WeeSchool. Considered one of the first mompreneurs to make it big, Julie has been featured on shows like Oprah and Good Morning America, in print pieces that include People magazine and USA



Today, and as a keynote speaker for organizations including the Harvard Business School and Microsoft. Julie is passionate about early childhood education and women in business.

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# Update on the Rapidly Changing Insurance Market for Colorado



**Brad Henderson**  
Network Insurance  
Services

It's no secret, the marketplace for habitational insurance is changing rapidly. What used to be a broad offering of insurance carriers and products has now been whittled down to a select few insurance carriers offering products that 10 years ago no one would have thought viable options. The marketplace for habitational insurance today is a hostile one.

Winds of change are driving the property insurance market in this new direction. Hurricane Harvey hit Texas in August of 2017. Harvey was followed by

hurricane Irma in Florida, which was followed by hurricane Maria hitting Puerto Rico shortly after. The losses from these storms amount to over \$100 billion dollars.

It's not just hurricanes that are causing the disruption to the marketplace. Wildfires devastated over 1.2 million acres of land in California in 2017. And as we are familiar with here in the Rocky Mountains, hail storms are becoming more frequent and more damaging than ever. Colorado experienced the costliest hail storm in our history on May 8th of last year, with insured losses exceeding \$1.4 billion dollars.

**“While its clear that the tides are changing in the property insurance market nationwide, there are ways to prepare the associations you manage for these changes and insulate them from dramatic changes to their policies.”**

With natural disasters on the rise, insurance carriers are taking note (and losses) and adjusting their underwriting discipline to remain profitable. Over the last few years, carriers have introduced percentage deductibles for Wind & Hail losses as a method to insulate them from this catastrophe. The deductible is a percentage of the Total Insured Value of the property, not the value of the claim.

For example, a building with \$10,000,000 in Total Insured Value may now be subject to a 2% Wind/Hail Deductible, or \$200,000.

Many insurance companies have recently announced that they are moving to a mandatory 5% Wind/Hail Deductible on all habitational accounts. That \$200,000 deductible just increased to \$500,000.

Insurance carriers are also becoming stricter on enforcing a ‘No Grills on Balconies’ underwriting guideline to protect themselves & their customers from life safety claims related to fires. The National Fire Protection Association (NFPA) indicated an average of 8,900 grill fires occur per year in the United States.

These 8,900 fires cause an annual average of 10 civilian deaths, 160 reported civilian injuries, and \$118 million in direct property damage. While gas grills may seem safer than charcoal, 83% of grills involved in home fires are fueled by gas. State & local fire codes vary with respect to grilling on balconies, however many insurance carriers are following the standard adopted by the NFPA which prohibits grills within 10 feet of a frame multi-family structure.

While its clear that the tides are changing in the property insurance market nationwide, there are ways to prepare the associations you manage for these changes and insulate them from dramatic changes to their policies.

With respect to the increasing Wind/Hail deductibles, there are a couple of solutions to consider. Depending on the by-laws of the association, there may be little to no flexibility in moving to a percentage deductible. Deductible buy down policies can be put in place to cover the difference in the deductible offered by the insurance carrier and what is required by the associations by-laws. With more flexibility in the by-laws, the tenant's policies can possibly be structured in a way to offset the assessment to the owners for their share of the Wind/Hail deductible.

Educating the board of directors of local fire codes and communicating them to residents is a proactive way to soften the blow that many who have had grills on their balconies for 20+ years will no longer have that option. Additionally, most insurance carriers will allow for electric grills on balconies as a substitute to their open flame counterparts. ⬆

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# m-203

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**A**s we head into the summer season, it is inevitable that Mother Nature will bring some wild Colorado weather to the Front Range. These storms could result in damages that require Associations to make insurance claims. Whether it is hail, wind, or some other weather-related Act of God, it is important to know some of the games that insurance carriers might play when you make a claim under your Association's property insurance policy.

## Multiple Causes of Loss

Most Association insurance policies contain what is known as an "anti-concurrent causation clause." This is "insurance lingo" that means that if your loss is caused by multiple different causes, and one of those causes is not covered, the insurance company can deny your claim. For example, if you have a sewer line back up in your basement (covered under the policy), and you also have water get into the basement from exterior flooding (not covered under the policy), your entire claim could be denied because of an anti-concurrent causation clause in your policy, even though some of the damage was caused by a covered loss. **Lesson: be careful about how you describe your claim when you submit it.**

## Policy Sub-Limits

Some policies will contain "sub-limits" for certain types of insurance coverage. While your overall coverage under the policy may have a \$1,000,000 limit, certain components of that coverage may be limited to a smaller "sub-limit." An example of this is coverage for debris removal. Your Association's policy may have a sub-limit for debris removal, which limits coverage for costs to remove debris to \$10,000 or some percentage of the overall limit. Practically, this means that even though you have \$1,000,000 in coverage, if your debris removal sub-limit is \$10,000, but the actual debris removal costs \$15,000, your Association could only get \$10,000 for that work (the sub-limit for debris removal). **Lesson: make sure you know the sub-limits when you buy your policy.**

## Cosmetic v. Functional Losses

Some insurance policies contain limitations on the types of damage they will cover relating to whether or not the damage or loss is "cosmetic" or "functional." Some policies do not cover "cosmetic" losses. Figuring out what is "cosmetic" versus "functional" is something that Associations and their insurers often fight about, but it's important to realize that if your Association's policy has a cosmetic loss exclusion, this could be an issue that the insurance company raises. For example, if hails dents your Association's metal roof but does not cause leaks through the roof, that may be a "cosmetic" loss. If you have a cosmetic loss exclusion, that damage may not be covered and you'll be stuck with the unattractive dented roof, even though there's no dispute that the hail caused the dents. **Lesson: if you want to ensure that cosmetic damages are fixed, make sure you don't have a cosmetic loss exclusion in your policy when you buy it.**

## Code Upgrades

When an older building suffers a loss, the repairs made are required to comply with the building code that is in effect when the repairs are made. In this example, let's assume the building was up to code when it was originally built. However, due to changes in the building code since then, if the building suffers an insurance loss, it may not be code-compliant. Although the building is grandfathered in as it stands, any repairs made after the loss have to bring the building into compliance with the new building code requirements. Some insurance policies contain coverage for these additional repairs and required upgrades. This coverage is called "code upgrade" coverage. However, if the building was never built up to code at the time of its original construction, you are not entitled to code upgrade coverage if you suffer a loss that's otherwise covered under the policy. **Lesson: if your building is older, make sure you have coverage for code upgrades.**

**"Whether it is hail, wind, or some other weather-related Act of God, it is important to know some of the games that insurance carriers might play when you make a claim under your Association's property insurance policy."**

## Actual Cash Value v. Replacement Cost Value Policies

Another thing that is crucial to determine is whether your Association has an "Actual Cash Value" policy or a "Replacement Cost Value" policy. With a Replacement Cost Value policy, the insurer must pay the full cost to replace the damaged components, i.e., it must pay the full cost to replace a roof damaged by hail. However, with an Actual Cash Value policy, the insurer can deduct depreciation, which is essentially the "value" that the insured has received of the damaged component over time. In the example of the roof above, let's assume that, at the time of the hail storm, the roof had an expected life of 20 years, and had already been on the building for 10 years. Then, the hail storm happens and the roof has to be replaced. The insurer calculates the amount it owes to the Association by taking the "replacement cost value" (the full replacement cost for the roof), and then deducts the depreciation (the value the Association has gotten out of the roof for the last 10 years), and then pays whatever is left. **Lesson: if the insured component (i.e., roof) is older, an actual cash value policy may not provide much coverage, if any, for a loss.**

Dealing with storm damage and the resulting insurance claims can be confusing and frustrating, but hopefully these tips can help you with some of the insurance lingo that you might hear when dealing with insurance claims. If you ever feel like something doesn't seem fair, or doesn't make sense, it's best to bring in a professional to assist you in negotiating a claim with the insurance company. ⬆

*Michael Lowder is a senior associate attorney with Benson, Kerrane, Storz & Nelson, P.C., where Heidi Storz is a partner. Mr. Lowder and Ms. Storz practice insurance and construction defect law, serving homeowners and homeowners' associations throughout Colorado.*

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Issue	Topic	Article Due Date	Ad Due Date
August	Finance	06/15/2018	07/01/2018
October	Tech / Modernization	08/15/2018	09/01/2018
December	Beautification / Upgrades	10/15/2018	11/01/2018



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## JUNE

<b>29</b> Fri	<b>CAI-RMC Golf Tournament</b> Heritage Eagle Bend • Aurora, CO
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## JULY

<b>19</b> Thu	<b>M203</b> Thornton
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## AUGUST

<b>9</b> Thu	<b>Managers Lunch</b> Lakewood
<b>10</b> Fri	<b>Strategic Planning</b>
<b>16</b> Thu	<b>M206</b> Fort Collins
<b>21</b> Tue	<b>Speaker Series</b>

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