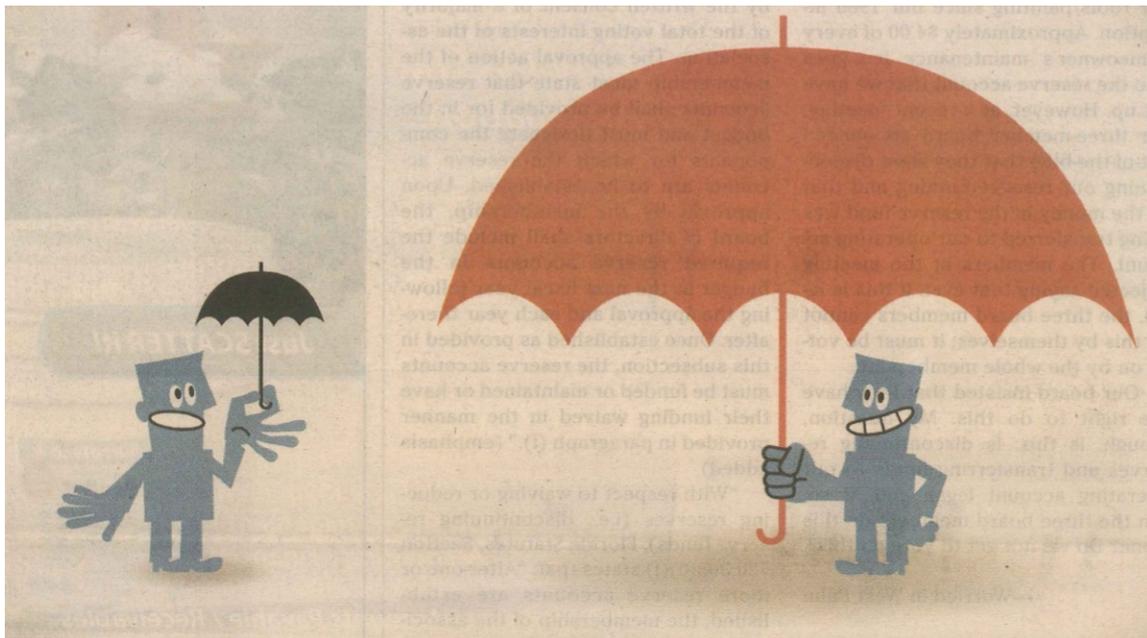


Insurance: A Must-Have or Couldn't Hurt?

Making Smart Yet Affordable Coverage Decisions

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BY MIKE ODENTHAL



From equipment failure and personal injuries to tornadoes and tropical storms, disasters happen, and any condominium association worth its salt knows that it needs to be prepared for a rainy day. Actually, even the most disreputable association worth zero salt is aware of this. And a great chunk of said preparation consists of insurance.

But with a vast array of coverage plans available at an equally expansive array of costs, how can a board decide what its community absolutely needs, what could be useful but isn't a must-have, and what is entirely superfluous? Florida is famous for hurricanes, but earth quakes seem unlikely. California has the opposite problem. So some decisions are no brainers. Others can keep a responsible board member up all night. Fortunately, there are kindly experts and thorough resources about that can help alleviate a board's insurance-based woes.

Bare Bones

There are certain types of basic coverage that are more or less mandatory for a condominium association to obtain. Not because of any statute, necessarily, but because to do without would be entirely reckless, and open a board up to all types of strife down the line. The main two, according to Adam S. Collins, CIC, CIRMS< of Ian H. Graham Insurance—a major national firm with offices throughout the U.S., Canada and in Europe—are directors & officers insurance and general liability insurance.

"Directors & officers insurance is typically required in an association's governing documents, but, if it isn't, and the board members don't have a policy in place to protect themselves, then they can be held personally liable regarding certain decisions," says Collins. This coverage basically keeps the board safe from unsubstantiated claims of wrongdoing by residents for its day-to-day decisions; i.e. anything from what landscaper to hire to which ailing part of the property to fix first.

General liability insurance is often referred to as "slip-and-fall" by those in the know, as it covers an association should anyone get injured while on the premises. This type of insurance can also be a godsend should anyone attempt a fraudulent injury suit, saving a board from all sorts of legal and financial headaches.

To these—especially as it pertains to Floridians—Keith Carroll, agency principal of Rick Carroll Insurance in Jensen Beach, would add windstorm coverage. "You'd be amazed at how many associations there are that, while not necessarily entirely bereft of wind coverage, are willing to go without it," he says.

In which case, were a major weather disaster to actually hit, the results could prove devastating when an association attempted to repair any significant damage.

In regard to property insurance, a condo association is responsible for the entirety of the community. According to Collins, that could mean a policy with a limit of up to \$50 million. In a homeowner's association, the individual residents are in charge with insuring their own abodes, and thus the association will only need concern itself with property coverage for any club house or communal areas in the event of damage.

Barbarians at the Gate

Scrimping on any of the aforementioned coverage policies will most likely result in ill fortune for a condo board. The obvious threat, says Carroll, "is that you'll have an angry membership that will come to a board looking for answers, vehement that the membership didn't make this choice, the board did, and it must now pay for any damages."

If there's no directors & officers insurance in place, adds Collins, "the board members will have to rely on the association to hire attorneys and fund its own defense; if there's not enough money in the association to do that, then they'll have to pay out of pocket. And as board members are volunteers doing this out of their own good will...well I would never serve on a board without D&O insurance."

Hiccups like these and others are why it's crucial for an association to get in bed with an insurance representative that specializes in its specific needs. With a wide sea of insurance options out there—from life and auto to drunk house guest protection (seriously) and fantasy sports-condominium association insurance is but a small part of a larger apparatus. Anthony de la Torre, of PCS Insurance Group in Tampa, notes that his firm does nothing but work with community associations. "Basically, anyone can get you a cheaper price by cutting coverage," says de la Torre, "so it's important to align yourself with the right consultant to deliver in the event that there is a storm, or another catastrophe to which your community is exposed."

De la Torre also notes that, under Florida state statute 718, an association is responsible to undergo an updated insurance appraisal every 36 months. "You don't want to cut corners there, because, in the event of a disaster, if an association is under-insured, it would have to pay for damages out of pocket and even be assessed a co-insurance penalty. On top of that, the unit owners would probably have to be assessed. The best way to avoid any of these potential problems is to work with an expert."

Bells and also Whistles

While the major types of coverage mentioned above are essential for any condominium community, there are plenty of additional options available to boards through their providers, some of which are significantly more condo-appropriate than, say, chicken insurance (also real).

Carroll singles out flood insurance as one of some import, and notes that, among many Floridians, there is somewhat of a misnomer in regard to whether or not they live in a "flood zone." "Everybody's in a flood zone, even the house on top of the mountain; it's more a matter of category of risk," he says. "some FL properties are in special flood hazard areas, and a bank will force anyone seeking a mortgage on one such property to purchase flood insurance."

But there are plenty of properties in non-flood-hazard areas that are also at risk of flooding. The bank may not mandate everyone on a barrier island to purchase flood insurance, but I can't imagine living there without it. If there's even a question, it's probably worth talking to an agent, getting a quote, and assessing risk vs. reward."

Automobile insurance can also be an asset for a condo community. Carroll has seen instances wherein a resident pulls into the parking lot for all intents and purposes, a common area-only to be run into by a maintenance person on a golf cart. An auto policy would help the association from having to pay out of pocket or even dealing with legal issues pertaining to such mishaps.

There's also crime and fidelity insurance, or, as Collins puts it, "employee theft." "It's not uncommon for a board member or property manager with access to an association's checking account to pilfer funds, and this type of policy can make the association whole again in the event that anyone that we define as an 'employee' absconds with some money."

De la Torre adds mold and sewer back-up to the mix, especially given the nature of many Floridian condominium complexes. "We have a lot of seasonal residents down here," he says. "In the

event that an A/C pipe breaks and leaks water into the drywall, only to go undiscovered for six months, mold would form as a result. A mold policy would provide coverage for the repair and replacement of the drywall."

Analysis: The Cost Benefit Story

One major thing about all insurance policies is that absolutely none of them are free. So an association, having already purchased the aforementioned must-haves, must spend some time analyzing its budget and seriously contemplating the needs of both board and constituents. This is why the importance of working with a trustworthy agent with specific condominium experience cannot be overstated. Fortunately, resources exist for associations to consult when shopping for an insurance professional, including *The South Florida Cooperator* and its expos, CAI, and peer recommendations.

"There are a lot of people who I encounter through various groups who claim to be specialists, but I think that you can verify within five minutes of talking to them that they're not as well-versed in a particular area as they could be," says de la Torre. "Talking to board members of other associations, going to expos, all of this helps. You need to dedicate some time to this. You're only going to get out what you put in."

Some less upstanding agents will try to dazzle a board with complicated legalese, and a "don't worry about it, let's just get this done" attitude. Collins urges boards to not be fooled. "Sometimes you can't even follow these contracts because they're so legally dense," he says. "Don't let your agent breeze by any pertinent information. Make them work for you. If it seems like they're doing a rush job, don't hesitate to consult other options."

By being vigilant, informed, and consorting with sources of high renown, an association can navigate the treacherous waters of the insurance world and come out with coverage that protects everyone involved during even the hardest proverbial monsoon.

Michael Odenthal is a staff writer at The South Florida Cooperator. Freelance writer Greg Olear contributed to this article.