Risk Management Tips for the Community Manager

The Hardening Insurance Market Provides a Bumpy Road for Common Interest Developments

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The times were living in cause us to think more about risk and risk management. Awakened from a false sense of security, we grudgingly admit the need to be more cautious and make adjustments to the way we live our lives. For the community manager, it also may require adjustments to the Association's risk management program. The hardening of the insurance market, which had begun prior to September 11th , has only gathered steam in the months that followed. Coupled with higher insurance rates are tightening underwriting standards which present the community manager with an unusual set of challenges.

What represents the risk management priorities for a community manager? Here are proactive steps a manager can take this year to assist an Association in the process:

- Brief the Board of Directors about the current marketplace and prepare them for the potential for larger deductibles and higher premiums. These changes could also be in an insurance contract that provides a reduced scope of coverage.
- Request a copy of the Association's loss history from the incumbent insurance agent/broker early and analyze it to make sure it's correct.
- Prepare a high-quality set of bid specifications outlining the requirements set forth in the governing documents, the California civil code as well as those optional coverages the Board wishes to maintain. Be sure to transfer risk to the insurance professional by calling on him/her to make their recommendations regarding the adequacy of coverage.
- Begin the insurance bid process early, at least 90 days prior to the anniversary date.
- Despite getting an early start, be prepared to receive last-minute quotes from carriers. Make sure the Board is in a position to quickly analyze the alternatives offered. Email is particularly helpful in this process as a proposal can be distributed to multiple parties instantaneously. It will enable you to access all necessary decision makers as soon as you receive the renewal quotes.
- If there is a large claim and it's due to the negligence of a third party, now is the time to ask if the insurance carrier if they plan to subrogate. Subrogation is the insurance company's right of recovery after a covered loss. The carrier can choose to take action to recover the amount of a claim paid from the responsible third party. If the carrier is successful, this may reduce or remove the negative implications from the Association's loss history.
- Are their any "open" liability claims appearing on the Association's loss history? Such "open" claims may be a red-flag for any underwriter. Meet with the adjuster to review any "open" claim which you believe may have been left open in error, or may have no merit. If sufficient time has passed, you may successfully persuade the insurance company to "close" the claim which, again, will reduce the negative implications.
- Communicate any steps the Association has taken to reduce the potential for loss. Include any information that you believe may favorably affect an insurance company. For example, if the Association has installed new water heaters, re-piped the project, removed tree roots, leveled sidewalks – tell the agent/broker in narrative form so he/she can easily pass the

information on to the carrier. It never hurts to include copies of paid receipts documenting the repairs.

- Be proactive and begin to analyze potential sources of loss. Water damage claims are of particular concern in this hard market. If you have ongoing water leak problems it is time to develop a plan to mitigate the problem. If a special assessment is necessary to fund repairs, now is the time to do it. Particularly if you have coverage with a standard market, you don't want to risk losing that coverage and going with an "excess and surplus" lines carrier at three to four times the cost with limited coverage.
- Request and obtain insurance rating information on all carriers – to assure that they are likely to be around when you need them. Insurance agent/brokers should be willing to provide this information with their proposal – or you can research each carrier on the internet at www.ambest.com.

A word about Terrorism Coverage – Its fairly obvious that the insurance industry was caught off guard by the events of September 11th . Carrier's knee jerk reaction was to immediate exclude coverage for terrorism on renewal policies. Meanwhile they began lobbying Congress for some help. On November 26, 2002, President Bush signed into law a Federal program that, in effect, requires property and casualty insurers to offer coverage for incidents of international terrorism and, in return, reinsures a large percentage of the risk. The Act not only requires carriers to now offer coverage it reportedly voids all terrorism exclusions currently in force on commercial property casualty policies of participating insurers. In exchange, if there is another terrorist event, insurers participating in the program will only be responsible for the prescribed aggregate amount of any one act. In 2003, for example, the Federal government will step in should a loss exceed an aggregate amount of $10 Billion.

Certain conditions have to occur in order for a terrorist event to be covered, but it certainly is a lot better than being without the coverage. Some carriers will be modifying their existing policies and including terrorism coverage as a part of their policy, while other carriers will be excluding the event but offering terrorism as a "buy back." In either event, at least coverage can be reasonably obtained, and the Federal government standing behind the Industry should another event occur. (Like any Federal program, we're all in this together. If there is a year where claims exceed the prescribed "aggregate" amount, then there is a provision that allows the Treasury Secretary to recoup the amounts paid, to reimburse the Federal coffers. This recoupment charge, if implemented, however, can never exceed 3% of the policy premium.)

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