

The Terror of it All.

By Timothy Cline, CIRMS, Timothy Cline Insurance Agency, Inc.

Community Associations are likely not high on the list of potential terrorist targets for Al Qaeda, or any other individual or group wishing to inflict harm on Western interests. The concern, however, is a given community's proximity to potential targets. In such cases, and just to "error on the side of caution," most communities should consider purchasing terrorism insurance when offered.



The Internet is rife with speculation with does or does not constitute a potential terrorist target.

The lists typically include the obvious -- fuel refineries, nuclear plants, airports, shopping malls, large meeting venues, governmental buildings, financial cents, and, of course, well known landmarks. The others might not be so obvious -- including communities which have oil or natural gas pipelines running underneath or near them, or have communities adjacent to active rail lines, bus depots and other transportation centers should consider coverage. Because water storage reservoirs and both manmade natural dams present potential targets, communities near them should definitely consider opting for this important coverage.

Terrorism insurance may not be necessary for every community association but if there is a terrorist-related loss even at a neighboring property, the insurance protection afforded the Association may become vital.

How it's offered.

President Bush signed into law the Terrorism Risk Insurance Act (TRIA) on November 26, 2002. Since that date, and due to a recent extension of TRIA which extends the act through 2006, any insurance company licensed in the United States in the business of providing primary or excess insurance must offer terrorism as a part of their policy.

Under what types of policies?

Community associations will be offered Terrorism Coverage not just on the Master Policy but also stand-alone polices issued for property, liability, workers compensation, Directors and Officers Liability and commercial umbrellas. Even earthquake coverage being written on "Inland Marine" and/or "Difference in Conditions" form will be required to offer the coverage for terrorism.

What will a Terrorism Policy Cover?

When the TRIA bill became law, there immediately became two different types of terrorism events: "Non-Certified" and "Certified." TRIA only requires an insurance carrier to offer coverage for latter (Certified) event. Don't misinterpret the term Certified as invoking some special stamp of approval. As broad as the word certified may sound, a "Certified" act of terrorism event has some pretty significant limitations. A Certified terrorism event is only identified as such when the terrorism occurs in the United States (or to a U. S. interest such as a U. S. installation or air carrier). It must result in at

least \$5 million in aggregate property and casualty losses and such losses must result from acts "committed by an individual or individuals acting on behalf of any foreign person or foreign interest." Thus, there is no coverage for acts such as the Oklahoma City bombing. Finally, coverage will only be provided for those acts certified by the Secretary of the Treasury as "acts of terrorism" under the Act.

The Act requires that such coverage be offered each year at renewal. It can't be excluded away – at least, that is, not without the Board of Directors specifically rejecting the coverage by signing a declination form.

What about fire following a Terrorism event? Wouldn't that be covered anyway?

California is one of 29 states in the country that requires fire coverage to be as comprehensive as the Standard Fire Policy. (The Standard Fire Policy is defined in the CA Insurance Code §§2070). As some community associations happily discovered during the Northridge EQ, fire is a "covered peril" often times even though coverage from the underlying event which caused the fire may be otherwise excluded. In this event, the community association may find the fire damage resulting from terrorism may be covered, even though the community may not have purchased coverage for terrorism. (There are two important considerations, however. 1). Only the resulting fire damage will be covered, not the other damaged caused by the terrorists. 2). Fire which occurs as a result of war, an enemy attack by armed forces, invasion; insurrection; rebellion; revolution or civil war, will still remain excluded.)

Nuclear, Biohazard, Chemical losses? Are they now covered?

So if there is potentially coverage for terrorism related fire losses how, then, does our purchase of terrorism coverage relate to nuclear, biohazard, and chemical exclusions contained in our policies? At the present, documents issued by the Department of the Treasury (the overseer of TRIA) indicate the Act does not extend terrorism coverage for any act involving these hazards if they were already removed from coverage by other policy exclusions. In other words, even if you community association purchases terrorism coverage, if the result is a nuclear, biohazard or chemical event – and your policy contains a nuclear, biohazard or chemical exclusion (nearly all policies will), TRIA will not respond to the damage related to these hazards. If they were otherwise excluded, they remain excluded.

The cost of this coverage will vary widely, but in most cases the terrorism expense won't be prohibitive. Some direct writers, such as State Farm, are including the coverage in their commercial insurance packages automatically (at no additional premium charge). Farmers, for example, reportedly is offering the terrorism coverage at a modest cost (at or near 1%). Allstate is also including the premium automatically. In these cases, and others where the cost is so insignificant, it would appear to be reasonable to include the coverage.

It's a Board thing.

Terrorism insurance is no different than any other insurance coverage your Board of Directors may consider. The probability of such an event is, perhaps, as likely (or less likely) than an earthquake event or, perhaps even less likely than a lightning strike. But many community associations wouldn't consider operating without coverage for either earthquake or lightning. The Board must perform their due diligence determining if, in their best judgment, they should have such coverage.

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This letter contains only a general description of coverage and is not a statement of contract. For a more detailed description of the policy conditions and exclusions, please consult the policy itself.

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