



## WHAT YOU NEED TO KNOW ABOUT HOA Insurance

### HOA Master Insurance Program

The Master Insurance Program is a bundle of policies which form the basic insurance inventory of required coverages for most HOAs.

The **HOA Property policy** provides coverage for damage to communal property, which may include roofs, common walls, lobbies, fitness centers, clubhouses, greenbelts, pools, and playgrounds. It protects against damaged caused by weather, fire, or vandalism (although flood insurance may need to be purchased separately).

### HOA General Liability Insurance

**General Liability Coverage** is usually carried with minimum Limits of Liability of \$ 1,000,000 Per Occurrence and \$ 2,000,000. Annual Aggregate. General Liability coverage pays the cost of lawsuits or settlements for medical expenses filed by anyone injured in common areas of the community as a result of negligence on the part of the Association. Negligence on the part of the Association is required to trigger coverage for acts which results in bodily injury, property damage of personal injury. This may include someone who breaks a leg in the gym or tears an ACL running on the community trails. It may also include libel, slander, wrongful imprisonment or wrongful eviction.

### Directors & Officers Liability (D&O) Insurance

The Insuring Agreement of a D&O Liability Policy states that the policy indemnifies and defends the Board of Directors and Officers for wrongful acts. It is the broadest policy of insurance protection that any insurance agent typically sells. Beyond this coverage statement it is restricted only by the acts that are excluded, which usually number about a dozen depending on the insurance company providing the policy. Exclusions often items that are not insurable such as illegal, any intentional damage and jurisdictional fines and penalties.

Directors and officers of non-profit organizations, including HOAs, either individually or collectively, are exposed to claims that they harmed the organization or someone else in the course of managing the organization's financial affairs and establishing policies. For example, a member of, or a contributor to, the organization may allege financial loss as a result of a director's or officer's breach of the duty of care or loyalty to the organization.

In addition, these individuals may be liable for bodily injury, personal injury or property damage caused to third parties while performing their duties for the organization, or for their vicarious liability in directing employees or others should an accident occur. Liability insurance on the homeowners policy provides no coverage for the typical types of lawsuits filed against directors, i.e. those involving management of the organization's financial affairs, and establishment policies and procedures. Directors and Officers Liability (D&O) is needed for these exposures.

**Hired and Non Owned Automobile Liability** is carried by most HOAs for one or both of two reasons. Either the Declarations and By Laws instruct that it should be carried or the Umbrella Policy requires the underlying Auto Liability Policy. If any Director, Officer or Volunteer happens to be involved in an automobile accident while conducting the business of the Association this policy would trigger to indemnify and defend the organization.

**A Workers Compensation, Minimum Premium Policy** may be required by the association's governing documents or be an underlying requirement of the Umbrella Policy as well. It provides statutory coverage as directed by the state legislature for any individual injured on the property which is found to be an employee. This coverage is provided by their professional management company.

## Personal and Individual Insurance Coverage

### Homeowners Liability Insurance

Section II of the homeowners policy covers the insured for legal damages arising out of bodily injury or property damage, unless an exclusion applies. Bodily injury is defined as bodily harm, sickness or disease. Personal injury hazards that might arise from the insured's activities with a non-profit organization, such as libel, slander, invasion of privacy, and malicious prosecution, can be covered by an endorsement. An insurance endorsement is an amendment or addition to an existing insurance contract which changes the terms or scope of the original policy. Endorsements may also be referred to as riders.

An exclusion is a policy provision that eliminates coverage for some type of risk. Exclusions narrow the scope of coverage provided by the insuring agreement. One exclusion that might cause a problem is the

business pursuits exclusion. This exclusion is not going to be a problem for an insured that is serving on the board of, or performing duties for a charitable or other organization that has no business purpose. However, an insurer might be more inclined to use the exclusion for a claim involving an organization that has a business-oriented purpose, such as a Rotary Club or Chamber of Commerce. One way to avoid this potential problem is to attach a Business Pursuits Endorsement to the homeowners policy and show the organization as the insured's "occupation."

## Personal Umbrella Liability

The general purpose of a personal umbrella policy is to provide high limits in excess of those provided by underlying liability policies. Since personal umbrella policies are not standardized, it is possible that a company's umbrella policy may provide liability protection for exposures not covered by an underlying policy. This may include claims arising out of an insured's activities on behalf of a non-profit organization. If an umbrella provides such coverage, however, it may be subject to a sub-limit. Review umbrella policies carefully to determine if any specific coverage is available for this exposure.

An unendorsed Personal Liability Policy, which is Section 2 of the Texas Home Owners Policy, which most people carry, provides very little if any protection for volunteer work and the exposures that come with it. However, if a volunteer asks his or her insurance agent to add a Personal Injury Protection Endorsement to that policy, coverage is provided for volunteer work on non-profit boards. Once the personal liability policy is endorsed, the Personal Umbrella will "follow form" and pick up on that coverage with additional limits. The annual cost of Personal Injury Protection is less than \$ 20 per year, but, you need to make a point to request it.

