



Control Losses In Common Areas

Preventing injuries and loss of or damage to property are major concerns for community associations. Residents, employees, guests, and invitees expect the buildings in which they live, work, visit, and do business to be safe from hazards and perils.

From major occurrences that affect many residents—like fire—to smaller incidents that affect a single person—like a sidewalk fall—accidents cause needless suffering and expense and are often preventable.

Because the courts expect “reasonable” efforts in protecting the public, this Focus addresses some sensible steps that can be taken to protect associations and prevent liability from taking a financial toll. Some of the suggestions are common-sense, inexpensive methods of protection; others involve considerable effort and outlay of funds. Not all of them will be necessary or appropriate for your association.

By identifying potential exposures before they occur, a professional risk management and insurance agent can help reduce these risks and make your property safer.

Preventive Maintenance to Buildings and Equipment Is Key

Maintenance is an important component in preventing a property loss. The first step is to identify the key building components and equipment; the second step is to determine what preventive maintenance is necessary for each critical item.

Identify the frequency of inspection, testing, and maintenance and who is responsible for completing each task. Guidance is often available from the equipment manufacturer or the servicing contractor.

Since electrical ignition is a leading cause of fires, electrical preventive maintenance is important for all buildings. The type and age of your community association's equipment will determine the extent of your electrical preventive maintenance program.

A good housekeeping program is a key component of preventive maintenance. It involves common aspects of cleanliness, order, and waste control, and it is basic to fire safety. Identify housekeeping needs and communicate individual responsibilities to employees.

Good housekeeping must address both interior and exterior building areas. The location of combustible storage, trash receptacles, and smoking areas must be away from exterior building walls.

Smoking Policy Must Be Posted and Enforced

Fires associated with smoking material result in hundreds of deaths, thousands of injuries, and hundreds of millions of dollars in property damage. Fires started from smoking materials can be eliminated with a strong policy and established procedures.

All residents, employees, and visitors should be aware of the smoking policy through posted signs. Whenever possible, do not permit smoking in the community association's common areas. If smoking is permitted in designated areas within the community association, those areas must be clearly identified and proper receptacles must be provided. All areas not protected by an automatic sprinkler system should be designated as non-smoking.

Fire Prevention Is a Must

Smoke alarms and automatic sprinklers have made substantial property damage and injuries caused by fire preventable to a large extent. Problems arise when maintenance becomes lax. The two most common reasons sprinkler systems fail are lack of proper maintenance or a valve closure that prevents adequate water from entering the system.

Maintenance and testing of alarm and sprinkler systems and smoke detectors must be done on a regular basis by a qualified person, and records must be kept. Different jurisdictions require that such records be maintained for as many as five years. Consult manufacturers' instructions for conducting proper inspection, testing, and maintenance procedures on specific fire protection equipment.

Automatic fire and smoke detection systems should be a part of the entire air handling system. The system should be designed to shut off supply fans, close fire dampers that could circulate smoke throughout the building, open dampers that discharge heat and smoke outside, and activate central fire alarms. Holes left by plumbing or electrical work must be "firestopped" with special materials.

Guard Against Slips, Trips, and Falls

Falls are the leading cause of injury-related emergency department visits, and fall fatalities are second only to automobile accidents. According to Travelers Insurance Company, more than 35 percent of their premises liability claims were slip, trip, and fall cases.

Clearly, injuries resulting from slips, trips, and falls are a potential source of liability claims against community associations. Knowing the hazards and taking affirmative actions to correct them are vital steps in making community associations safer.

Three main components are important in reducing slips, trips, and falls—walking surface design, walking surface maintenance, and awareness training.

Several hazardous conditions contribute to slips, trips, and falls: uneven or slippery surfaces (be sure to place caution signs when cleaning or waxing the lobby floor), debris, inadequate lighting, missing handrails on staircases and ramps, poor maintenance of surfaces, and poorly designed surfaces, to name a few. However, good design and construction and effective maintenance procedures can reduce the potential for loss.

Residents and employees should be educated about the potential for injury to themselves and their visitors. Residents and employees should feel like they have a safety responsibility—if they see a potential hazard, they should do something to eliminate it, such as reporting the hazard to management.

The Occupational Safety and Health Administration determines guidelines governing the condition of floors, stairs, and other walking surfaces. The National Fire Protection Association and other organizations determine building codes concerning stairs and ramps. In addition, the Americans with Disabilities Act has walking surface regulations to allow for wheelchair traction and freedom of movement for people with disabilities. These regulations result in safer conditions for all people, not just those who need improved accessibility.

Comprehensive risk management is the key to loss control. The following elements should be included in a comprehensive risk management program:

- All construction should be done in conformance with all state, county and local building codes and ordinances.
- All areas that could cause slips, trips, and falls should be inspected on a regular basis, and repairs should be made promptly when necessary.
- Detailed records on inspections, repairs, complaints, and corrective action should be kept.

Electrical Systems Need Attention, Too

Maintenance must be performed on schedule, and a licensed and insured electrician should be consulted to make any corrections needed. A building inspection should note the following for prompt corrective action:

- electrical outlets or devices that are hot to the touch
- loose wiring
- wiring touching beams or nails
- old, badly corroded metallic tubing
- excessive extension cords
- heat-producing devices mounted too close to combustible materials
- flammable items stored too near panel boxes or transformers and
- the incorrect size breaker for the job.

Independent Contractors Need Special Attention

If an independent contractor provides your association with services such as landscaping, trash removal, or snow removal, it is essential that the association have a Certificate of Insurance on file confirming that the contractor has appropriate insurance coverage.

Although recommendations differ depending upon the type of contractor and the nature of work to be performed, we generally suggest a minimum \$5,000,000 combined single general liability limit for bodily injury and property damage with a \$5,000,000 annual aggregate limit. A single general liability policy or combination of a primary underlying and umbrella policies to achieve the suggested limits is acceptable.

Policy limits should be provided to the full extent for the benefit of the association, or the contractor should be asked for a loss run for the current policy term to confirm that aggregate limits are not in jeopardy of being exhausted.

The contract should include an indemnity clause with a “hold harm-less agreement” in the association’s favor including both indemnification and defense provisions, which protects the association’s interests against claims, suits, or other causes of action caused by or arising out of the contractor’s work.

Unless an independent act of negligence (such as negligent hiring) can be established against the insured, most associations would probably not be liable for damages caused by an independent contractor. Safety rules and regulations are a commonsense necessity.

Proper Claims Reporting Is Essential

Managers must be familiar with proper claims reporting procedures and be aware of the need to control situations where property damage or bodily injuries have occurred. All accidents and incidents should be recorded. Losses involving bodily injury should be called in immediately to a claims coordinator. Most insurance agents and companies can offer this type of assistance.

Often, an injured person will pursue a claim because of the poor manner in which he or she was initially treated, or because the claim was reported late and no effort was made to provide proper attention. Courteous treatment throughout can result in much smaller claims.

We’re Here If You Need Further Information

Community associations face risks each day. It is possible, with a thoughtful and methodical approach, to avoid many of these risks and to provide a safer, more comfortable environment. By working with an insurance professional who is knowledgeable in the field of risk management and controlling losses, you can reduce premiums by reducing claims. If you have any questions or need further information, please contact one of the following:



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