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### Is there a Gap in your Insurance Coverage?

Associations would, of course, like to think its insurance policies meet all its requirements. Unfortunately, since insurance policy language is not easy to read or understand by the average person, boards and managers usually rely on insurance agents to tell them what insurance they should have. The board or manager may not be aware when their policies have failed to meet even the basic requirements contained in the association's governing documents.

Before any insurance policy is purchased, the association should be sure the agent has reviewed the association's governing documents and understands the requirements. Alternatively, the board may engage the assistance of its attorney to interpret the insurance requirements contained in the governing documents and prepare insurance bid specifications for the board to use. There is a very important reason for understanding the insurance required to be carried by the association's governing documents: directors and officers ("D&O") liability insurance will usually not cover claims against the board for failure to purchase the required types and amounts of insurance.

There are three commonly overlooked requirements contained in governing documents. The first is building code upgrade coverage, or ordinance or law coverage, which is most commonly found in the documents of communities formed in more recent years. This coverage would pay extra costs incurred to bring the buildings up to the current code after a covered loss.

The second commonly overlooked requirement is if the building(s) are required to be insured for full replacement value. If replacement cost estimates from insurance agents vary by more than 10 percent, the board should have each agent review his or her proposal and justify how he or she has determined the suggested replacement cost. Board members may seek advice from contractors to determine the construction cost of their property. Regardless of the type of building coverage, the association's buildings should be insured for their full value.

The third commonly disregarded requirement is fidelity coverage, that is coverage for theft of funds. The governing documents may state whether or not the policy is to be purchased, as well how much coverage is required. Associations should consider fidelity coverage for all persons who handle association funds, even if its documents don't require it. Fidelity coverage tends to be one of the least expensive coverage available.

Most governing documents are very explicit about the type of insurance the association needs to purchase. Too often, board members get caught in the budget battle and opt for the lowest cost policy, not realizing the gaps that may exist. The best way to ensure all requirements are met is to do what it takes to gain understanding of the requirements. One way to acquire such understanding is to have insurance bid specifications drafted by the association's attorney detailing the requirements to be filled. Then, work with an insurance agent experienced in working with associations. Make sure the insurance agent reviews the association's documents and insurance bid specifications, if available, and proposes a policy that meets the association's individual requirements.

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