



KEOUGH
MOODY

**August 2017
Newsletter**

It's August! We are steam rolling through summer and before you know it, fall will be here! And with fall comes our annual client appreciation open house in September. Stay tuned for more details!

As always, if you have any ideas for a seminar topic, please let us know. You can reach me at cmk@kmlegal.com or (630)369-2700 extension 211. Thank you for your continued support!



Chuck Keough

Is it Enough to Protect the Association if it has a Certificate of Insurance from a Vendor, which Names the Association as a Certificate Holder?

Shortly after entering into a contract with a vendor, a community association often makes sure to obtain a Certificate of Insurance from the vendor. After all, the contract likely has a term that states the vendor will provide the association with such proof of insurance. Having this certificate of insurance ensures that if a loss occurs as a result of the vendor's actions, the association is covered under that insurance policy. Right? Not necessarily!

A form Certificate of Insurance identifies who is the "Certificate Holder." It is usually within this box that the name of the association and its managing agent are identified. Often, the association sees it is named and assumes it is covered. Unfortunately, that is not what this means. In order to ensure that the association and its managing agent are covered under the policy, they must be named as additional insureds. Being named as an additional insured gives one rights under the vendor's insurance policy. If the association is named in a lawsuit because of an injury that resulted during the vendor's work on the property, the association will only be covered under the vendor's insurance policy if it is named as an additional insured.

For condominium associations, Section 12(i) of the Condominium Property Act requires that contractors and vendors doing business with a condominium association pursuant to a contract

exceeding \$10,000 per year, must provide certificates of insurance naming the association, its board of directors and its managing agent, as additional insured parties. 765 ILCS 605/12(i). To meet this requirement, in addition to other requirements, the Certificate of Insurance must specifically state that the association, board of directors and managing agent are additional insured parties to the insurance. The vendor must also take the necessary steps to obtain the policy endorsement identifying the additional insureds. After all, it is the actual endorsement that provides the coverage for additional insureds. The association can and should request proof of this too from the vendor. It is a good practice for all community associations to follow the requirements of Section 12(i) of the Condominium Property Act.

Cindy Fitts of CISA Insurance (Condominium Insurance Specialists of America) sees this problem often. "Too often associations forget that a general certificate of insurance from the contractor means NOTHING!" she says. She stresses that "what matters is the actual policy endorsement." She also says when an association receives a certificate of insurance it should confirm:

1. That the Certificate properly identifies the name of the vendor and that the name is the same name as the one on the contract with the association (seems obvious but a costly mistake that does happen);
2. That the association and the management company are named as additional insureds;
3. That proof of General Liability Insurance has been given; and
4. That proof of Workers Compensation Insurance has been given.

While the Illinois Condominium Property Act only requires condominium associations to be named as additional insureds if the contract exceeds \$10,000 per year, it is wise for associations to require all contractors to meet this requirement, regardless of the amount of the contract. Cindy agrees with Keough & Moody that there is never a time where a contractor should do work on the association's property without meeting these requirements. After all, a \$1,000 repair project can easily cost the association ten times that amount if the vendor is injured on the association's property. If the vendor does not want to name the association and management as additional insureds and to obtain the policy endorsement, then the association should not be doing business with this vendor. Remember, you "the association" are in the driver's seat and enforcing this requirement protects your owners. The association, through its board of directors, should consider adopting a resolution or policy that identifies the minimum requirements for each vendor used by the association. This will help guide the members of the board and management when selecting vendors.

Do you know the differences between a board meeting and a membership (or unit owner) meeting?

There are differences between these two types of meetings. Often, members think that since they are invited to a board meeting that they have certain rights. The following checklist is a general overview of the differences.

Board Meetings

Purpose: For the board to conduct business

Notice: To all at least 48 hours in advance

Who can attend: Only members of the association and those invited by the board. (Tenants are not members of the association & Owners cannot give a proxy to a non-owner to attend a board meeting)

Who can vote: Only members of the board

Use of Proxies: Members of the board cannot vote or act by proxy. (But they can attend by electronic communications equipment so long as all participating in the meeting can hear one another)

Membership Participation/Forum: For condominium associations, none required (but recommended)

For Common Interest Community Associations, every meeting must allot time for such participation. (Board can set a time limit and it decides when it will be during the meeting)

Membership/Unit Owner Meetings

Purpose: For the membership to act or vote

Notice: To all at least 10 days and no more than 30 days in advance

Who can attend: Only members of the association and those who hold a proxy for a member

Who can vote: All members of the association

Use of Proxies: Allowed so long as not prohibited by the association's governing documents.

If you have any questions about anything related to this newsletter, please contact Gabriella Comstock at grc@kmlegal.com or (630)369-2700 x 209.

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