



NEWS OF VALUE

INDEPENDENT CONTRACTORS' INSURANCE REQUIREMENTS

It is common for community associations to hire independent contractors to provide services such as landscaping, trash removal, snow removal, and elevator maintenance. Although having contractors perform such work can be convenient and cost-effective, it is not worry-free. Community associations must make sure independent contractors have the appropriate insurance in place before hiring.

What is the definition of an independent contractor?

An independent contractor agrees to do a particular job according to his own judgment and methods. The person or entity that hires the independent contractor has no control over the means or methods used by the contractor to perform the work. The independent contractor is not an employee or agent of the community association.

Who is responsible for the acts of independent contractors?

In general, community associations are responsible for the acts of employees when such acts are within the expressed or implied scope of the employee's job duties. Employers can be held vicariously responsible for the acts of their employees.

Contrary to an employment situation, community associations generally cannot be held vicariously liable for the acts of independent contractors. Sometimes, however, this does not hold. For instance, a potential plaintiff could claim negligent hiring of an independent contractor by alleging that the community association had the duty to carefully choose the contractor, but it did not exercise good judgment. The possibility that an independent contractor committed a negligent act and is without sufficient (or any) insurance is yet another cause for concern.

What should we know about insurance and independent contractors?

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 including general liability, workers compensation, and automobile liability 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 insurance 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.

Workers Compensation insurance should always be confirmed with coverage and amounts as required by law including employer's liability coverage with a policy limit of at least \$500,000 and a provision for extending the policy in accordance with the law of other jurisdictions.

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Automobile insurance should include owned, non-owned, and hired car liability coverage with bodily injury and property damage limits of at least \$1,000,000 each occurrence and annual aggregate.

The contract should include an indemnity clause with a “hold harmless agreement” in the association’s favor including both indemnification and defense provisions, which requires the contractor to protect 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.

[Where should I go for more information?](#)

If you have any questions or need further information, please contact Steve Dickerson (703-205-8788 or Steve.Dickerson@usi.biz) or Theresa Melson (703-205-8753 or Theresa.Melson@usi.biz).

February 2009