



## INSURANCE FOCUS

### MASTER POLICY V. PERSONAL INSURANCE

Individuals who live in a community association may assume they and their possessions are covered against loss by the association’s master policy. Usually, this is not the case. A community association must provide insurance coverage against typical hazards and perils that might affect an individual owner of a residence, but this coverage does not usually extend to unit owner’s improvements and betterments, personal property, or personal liability.

#### What liability coverage does the master policy provide for owners?

The master policy is designed to protect owners against liability claims arising out of membership in the association. For instance, if anybody slips and falls or otherwise sustains bodily injury within an individual unit, the master policy will MOST LIKELY not apply. If someone injures himself or herself in a common area, the master policy would be the appropriate form of indemnification if the accident is proven to be caused by the negligence of the property owners and would consequently defend all owners against a claim.

Regardless of the kind of policy a community association has, owners and tenants should purchase a personal policy to fully protect their interests.

Should a resident inadvertently leave the water running in his kitchen sink, allowing water to overflow, the master policy will not protect him against the claim from the resident in the unit below for damage to his personal property or the expensive wallpaper he installed.

#### What kinds of property insurance are available?

Community association property insurance is written under at least three concepts: “bare walls,” “single entity,” and “all in.” It is up to the board of directors of a community association, with the assistance of a qualified insurance advisor, to purchase insurance that conforms and complies with all recorded association documents and statutory insurance requirements.

The most limited form of master policy insurance is called “bare walls” coverage. This means that general and limited common areas are covered—up to the bare perimeter walls, floors, and ceilings of individual units. What is not covered are all items within the interior of these walls, which include fixtures, appliances, interior partitions, wall coverings, floor coverings, cabinetry, and in multi-story units, even the floors, stairs, and ceilings between the lowest floor and highest ceiling.



The most common type of master property insurance purchased by community associations is “single entity” coverage, which like bare walls coverage insures the general and limited common elements. However, this coverage also extends within individual units to fixtures, appliances, walls, floor coverings, and cabinetry, but only for like, kind, and quality to that conveyed by the developer to the original owner.

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In other words, building coverage under the master policy in this type of policy is limited to the original plans and specifications. Any individual unit improvements made subsequent to the original conveyance, such as building a wall to divide a room, or upgrading carpeting or other floor coverings, wall treatments, appliances, cabinetry, etc., are not covered by the master policy. These improvements are the responsibility of the unit owner to insure.

A less common type of coverage is called "all in" because it not only provides for general and limited common areas and individual units, it also covers additions, alterations, improvements, and betterments made at the unit owner's expense.

### Does the master policy cover anything else?

In addition to protecting the physical property of the community association, master policy coverage protects associations against sometimes arbitrary charges of negligence. Such negligence can be the result of bodily injury, property damage, personal injury, or advertising injury. Bodily injury claims might be made by individuals who slip and fall on association property or who are the victims of crime.

### Are contractors covered by the master policy?

Contractors have been known to cause injuries by the manner in which they perform their work, such as by

using faulty scaffolding and ladders and by leaving floors wet.

It is essential that the association have a Certificate of Insurance on file confirming that the contractor has appropriate insurance coverage. Policy limits should be provided, to the fullest extent possible, to the benefit of the association, and the sub should be required to provide proof that a "Per Project Aggregate" endorsement has been purchased guaranteeing limits per location (Endorsement #CGD2110104).

**CRITICAL INFORMATION FOR RESIDENTS**

- Determine what type of master policy your community association coverage policy is ("bare walls," "single entity," or "all in").
- Share this information with your insurance advisor to determine the most appropriate coverage and limits you should purchase.
- Keep community association documents in a safe location and PASS ALONG amendments and endorsements to the Master Policy to your agent to MAINTAIN adequate protection.

The contract should include a "hold harmless agreement," with indemnification and defense clauses, which protects the association's interests against claims, suits, or other causes of action caused by or arising out of the contractor's work.

### Who should pay the deductible?

It is important for the community association to determine who is responsible for paying the deductible. For instance, if a fire starts in a unit, who pays: the association or the prop-

erty owner? The question of who pays the deductible can be answered in at least five ways:

- 1) The property owner who suffers the damage incurs the cost of the master policy deductible.
- 2) If a negligent party causes the damage, the negligent party incurs the deductible cost.
- 3) If the association must pay the deductible, it may be paid out of the operating account or an operating reserve account if the association has one set up.
- 4) The association will make a special assessment for all master policy deductible claims on an annual basis.
- 5) The owner of the unit from which the cause of loss originates pays the deductible. If the cause of loss originates from the common elements, the association pays the deductible.

Responsibility for the master policy deductible might be dictated by the association's bylaws or state statute in some cases.

### How do we tell what our property is worth?

Accurate valuation of property is essential. In the case of community association buildings, even though it is expensive, it is often wise to hire a professional appraiser. Purchasing guaranteed replacement cost coverage, if available, can eliminate the concern of accurate valuation. This coverage assures full value replacement, without regard to a coverage dollar limit.



**What should residents do to protect themselves?**

Residents must be aware of the type of coverage in effect through their community association. Regardless of the kind of policy a community association has, owners and tenants should purchase a personal policy to fully protect their interests.

Resident owners should consider an individual Community Association Unit Owners policy (HO-6). This policy can provide coverage for personal property, unit improvements, betterments, additions and alterations, additional living expenses, personal liability, loss assessments, and deductible reimbursements. Non-resident owners (those renting from an owner) may not need coverage for personal property or additional living expenses; however, they do have all of the other insurable exposures of a resident owner.

Additionally non-resident owners can be insured for loss of rental income. Renters should purchase a Tenants Homeowner (HO-4) policy to provide coverage for personal property, additional living expenses, and personal liability.

Coverage can be arranged under some HO-6 policies to pay for damages to a unit over the personal policy deductible, usually \$250 or \$500, up to the master policy deductible. This type of coverage is generally referred to as "building" or "dwelling" coverage under a personal

homeowner's policy. Unit owners should check with their HO-6 policy agent or the insurance company to determine if they have appropriate "building" or "dwelling" insurance to cover damage to their unit up to the master policy deductible.

The master policy will not cover personal property, such as clothing and furniture within individual units, nor will it provide coverage for personal liability or additional living expenses.

Homeowners must be aware of current market conditions and of the type of coverage in effect through the association. They need to understand that deductibles have increased, which could result in a significant out-of-pocket expense without the appropriate personal insurance protection.

**Where should I go for more information?**

Although many agents, brokers, and companies offer master insurance policy coverage, only a few specialize in the complex area of community association insurance. Your association insurance program must comply and conform with all statutory and association recorded document requirements, as well as the specific needs of the community association. It is critical to review your association's insurance needs with qualified professionals.

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

**TYPICAL HO-6 PLAN WITH APPROXIMATE COVERAGES/COST\***

Coverage available in DC, MD, and VA

Building or Dwelling.....	\$10,000
Personal Property Coverage (With Replacement Cost).....	\$30,000
Additional Living Expenses .....	\$12,000
Personal Liability .....	\$500,000
Medical Payments to Others (Individual Limit) .....	\$5,000
Loss Assessment .....	\$10,000
Deductible .....	\$500
Estimated Annual Premium .....	\$275

- \* Higher limits are available; coverages and premium subject to change.
- \* Water back-up, personal injury protection, and ID fraud coverage are all recommended, where available.
- \* If you are interested in obtaining information or a quote on personal homeowners insurance, please contact—
  - Maria Demierre at 703-205-8764 (maria.demierre@usi.biz)
  - Cindy Clauson at 703-205-8761 (cindy.clauson@usi.biz) or
  - Personal Lines Manager Diane Beatty at 703-205-8792 (diane.beatty@usi.biz).



ASK THE EXPERT

“Ask the Expert” is a regular column in *Insurance Focus*, featuring an interview with an expert about an important insurance issue facing community associations. This month our expert is Lucia Anna Trigiani, a partner in the Tysons Corner, Virginia office of Troutman Sanders LLP. Ms. Trigiani represents community associations and developers of community associations. She was president of the Washington Metropolitan Chapter of the Community Associations Institute in 2000.

**Q:** When damage of a type covered by the master insurance policy occurs to a unit but would be payable under the master policy, who should pay the deductible?

**A:** Although the question of who pays the deductible has always been a frequent topic of discussion in the community association industry, more recently the question has taken on new significance. With a challenging insurance market and the decision of association boards of directors to increase the deductible in order to hold down insurance costs, questions about responsibility for the deductible are again a hot topic.

As we very often do when looking for the answer to a question for a community association, we ask a question, “What do the documents say?” Although some states have enacted legislation to limit the amount that an owner might pay or to make an owner liable for the amount of any deductible, legislation is not the best place to look for the answer. Because “one size does not fit all,” the question is or can be best addressed in the governing documents for the community.

Typical language found in the bylaws of condominium unit owners associations provides that the association is responsible for the deductible except where the damage was caused by the

negligence or willful misconduct of the owner or resident. Some documents have the added requirement that the board make a determination that the owner was in fact negligent or should be held responsible to pay the deductible.

If the documents address responsibility for the insurance deductible, the board may choose to adopt a resolution based on the language of the condominium documents in order to make clear who is responsible for the deductible. Such resolutions are helpful guidance to management and inform the unit owner in advance that he or she may be expected to pay for damages not covered under the master policy. If the law and the condominium documents do not address responsibility for the insurance deductible and the issue of paying the deductible is a recurring issue, the association may wish to consider amending the condominium documents to address the issue.

In all cases, the issue of who pays the deductible can be minimized by encouraging unit owners to purchase individual coverage to cover the deductible. Unit owners and residents should be periodically reminded of the limitations of the master policy coverage—particularly when there is a change in the coverage to allow them to fill the gap between their personal responsibility and what may be covered by the master insurance policy.

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