

The Changing Insurance Environment
CALIFORNIA COMMON INTEREST DEVELOPMENTS

Part I: Changing California Earthquake Insurance Marketplace

Presented by:
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After seeing a 12-year low in Earthquake insurance pricing last year, premiums are starting to rise...

Why?

Why?

- 1) Reinsurance Considerations / 2017 Catastrophe (CAT) losses
- 2) Risk-modeling software updates: Risk Management Solutions (RMS) Version 17)

Negotiating the best terms for your Association's earthquake program:

Scope of building coverage with respect to unit interiors

Negotiating the best terms for your Association's earthquake program:

How does the earthquake deductible work?

Negotiating the best terms for your Association's earthquake program:

Why the Statement of Values might be the most important document your Board signs this year

Negotiating the best terms for your Association's earthquake program:

Marketing Summaries Broker Fees Finance Agreements

Negotiating the best terms for your Association's earthquake program:

What about retrofitting?

Is your Board informing individual owners about the importance of maintaining (or at least investigating) personal EQ insurance?

The Five (5) Important Coverages:

Real Property	Contents (Belongings)	Loss of Use	Premises Liability	Loss Assessment
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Part 2: Condominium Master Policy Coverage

Presented by:
Ryan Gesell, CIRMS, CMCA
Cline Agency Insurance Brokers

The Marketplace...

- ❑ New players entering the marketplace?
- ❑ Competition is forcing carriers to differentiate themselves by offering vastly improved coverage options
- ❑ Guaranteed Replacement Cost Coverage, All-In Endorsement, token Flood Coverage, and other "bells and whistles"

The Marketplace...

- ❑ Fire Fever. Insurers respond to increasing California wildfire activity.
- ❑ More emphasis on insuring to value.

The Marketplace...

- ❑ Does your Association have sufficient building limits?
- ❑ The Impact of "Demand Surge" on post-catastrophe replacement costs (labor and material)?
- ❑ Why so much focus on brush clearance?

BEWARE of "package"
Directors & Officers Liability policy forms.
In this case, you may be paying less and receiving even less.

Beware of "package" Directors & Officers Liability policy forms.

- Manager Included as A/I?
- Defense Costs Outside the Limits?
- Defense for Non-Monetary Claims?
- First Dollar Defense?

Water, water, water—why do these particular types of claims matter?

Options often available to protect the Association from losses?

- Higher Deductibles
- Limit Scope of Coverage

Part 3: 2008 to 2018: A Decade of Interesting Claims and Insurance Exposures

Presented by:
Timothy Cline, CIRMS
Cline Agency Insurance Brokers

Interesting Claims and Insurance Exposures

- ❑ Three most interesting claims
- ❑ Most unusual Directors and Officers Liability Claims
- ❑ Third-Party employment exposures. How could a contractor firing one of his employees impact your Association?
- ❑ New workers' compensation Supreme Court decision: A, B, C's of Employees
- ❑ Hiring Contractors and Subcontractors

The "ABC's" of it...

- ❑ Dynamex Operations West., Inc. vs. Superior Court of Los Angeles
- ❑ Dynamex operated as "same day" courier and delivery company in Los Angeles County.
- ❑ Two disenfranchised delivery drivers spearheaded a class-action suit against their employer who arbitrarily changed their status from "employee" to "Independent contractor."

The ABC Test

Under the ABC test, a worker will be deemed to have been "suffered or permitted to work," and thus, an **employee** for wage order purposes, unless the putative employer proves:

- (A) that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- (B) that the worker performs work that is outside the usual course of the hiring entity's business; and
- (C) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

Note that each of these requirements need to be met in order for the presumption that a worker is an employee to be rebutted, and for a court to recognize that a worker has been properly classified as an independent contractor.

New crime exposures require especially tailored insuring agreements

- ❑ Cyber Liability: Inadvertent breach of personal identifiable information
- ❑ Crime/Fidelity Exposures
 - ❑ Bank Transfer Fraud (Funds Transfer Fraud)
 - ❑ Computer Fraud
 - ❑ Social Engineering

Hiring Contractors and Subcontractors

- ❑ Please see the "Contractors/Subcontractor Insurance Checklist" for more details.
- ❑ Verify that the individual/company is licensed in California. (www.cslb.ca.gov)
- ❑ Contract must be reviewed by legal counsel to make sure the contract has the necessary indemnity provisions.

Hiring Contractors and Subcontractors

- ❑ Contract must require vendor's insurance carrier to name both the Association the management agent as an "additional insured."
- ❑ A **Certificate of Insurance** is not sufficient evidence for the Association. Instead an endorsement to the policy must be ordered.

Hiring Contractors and Subcontractors

- Such coverage shall be "primary" and "non-contributory" and must include a waiver of subrogation provision in favor of the Association and the management agent.
- The agent/broker must provide a statement to the Association confirming that the coverage doesn't maintain a "Condo" or



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QUESTIONS?

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