

# A WORKER COMPENSATION CLAIM FLOWCHART!

**THE CLAIM:**  
*Someone is hurt on  
the Association's  
property!*

**IS YOUR  
CONTRACTOR  
INSURED?**

NO

**DOES YOUR HOA  
HAVE A  
WORKERS'  
COMPENSATION  
POLICY?**

NO

YES!

YES!

**CLAIM PAID - YEAH!!**

- Insured Employee of Contractor taken care of!
- Everyone's Happy!



**UNHAPPY AGENT**

**UNHAPPY CLIENT  
FOR MANAGER  
AND AGENT**

**UNHAPPY MANAGER**

## **WHY IS THE CLIENT UNHAPPY?**

- **ASSOCIATION IS HELD RESPONSIBLE FOR ITS SHARE OF THE CLAIM, AND HAS TO SPECIAL ASSESS THE OWNERS.**
- **MEMBERS SUE THE BOARD OVER SPECIAL ASSESSMENT FOR NOT HAVING COVERAGE IN PLACE.**
- **D & O MAY NOT PAY CLAIM STEMMING FROM INSURANCE DECISIONS MADE BY THE BOARD. THERE IS NORMALLY NO COVERAGE FOR LACK OF INSURANCE.**
- **CLIENT ENDS UP IN ERRORS AND EMISSIONS MARKET - PAYS EXORBITANT PREMIUM FOR YEARS.**
- **SENSE OF COMMUNITY SHATTERED OVER UNNECESSARY EXPENSE BORNE BY THE UNIT OWNERS, WHICH COULD HAVE BEEN DEALT WITH EARLY ON WITH COVERAGE.**

## WHY IS THE MANAGER UNHAPPY?

- MANAGEMENT COMPANY IS HELD RESPONSIBLE FOR IT'S SHARE OF THE CLAIM.
- ARGUES UNSUCCESSFULLY THE PRINCIPAL OF "AGENCY" TO ESCAPE LIABILITY (CASE LAW PRECEDENT ESTABLISHED IN 2007 RULING - HELMAN V. WORKERS' COMPENSATION APPEALS BOARD.)
- COMPANY AND MANAGER FACES THE UNPLEASANT PROSPECT OF HAVING TO SUE THEIR OWN CLIENT FOR INDEMNITY BASED ON WHAT THE CONTRACT MAY CONTAIN.

## **WHY IS THE AGENT UNHAPPY?**

- **AGENT IS SUED FOR NOT OFFERING COVERAGE OR CAN'T PROVE THAT HE OR SHE OFFERED IT.**
- **AGENT FACES SIGNIFICANT ERRORS & OMISSIONS CLAIM.**
- **CLAIM RESULTS IN ERRORS & OMISSIONS COVERAGE RENEWAL CHALLENGES TO THE AGENT AND HIS CLIENT - PAYS HIGHER RATES FOR YEARS!**
- **AGENT SUFFERS LOSS OF CONFIDENCE AMONG ASSOCIATION CLIENT BASE SINCE WORD DOES GET AROUND QUICKLY.**