



Hindman Sanchez

INSURANCE AUDIT REPORT

Crested Butte Property Owners Association, Inc.

As of April 7, 2011

Hindman Sanchez P.C. has been retained by the Crested Butte South Property Owners Association, Inc. to review the Association's insurance policies provided to the Association through The American Alternative Insurance Corporation, The Western Surety Company, and the Nautilus Insurance Company, to determine whether coverage is in compliance with the Association's governing documents.

DOCUMENTS REVIEWED

Insurance requirements are not contained in the Declaration or in the Bylaws.

Professional Association Liability Policy ("D&O"): The Association does not appear to have a separate D&O policy

Commercial General Liability Policy is with American Alternative Insurance Company (excluding Rock Wall)

Commercial General Liability Policy (Rock Wall) is with Nautilus Insurance Company

Commercial General Liability Umbrella Policy: We were not presented with an Umbrella Policy

Commercial Property Policy is with American Alternative Insurance Company

HindmanSanchez

INSURANCE OBLIGATIONS AND COMPARISON TO ACTUAL COVERAGE

I. COMMERCIAL PROPERTY AND CASUALTY (Protection for physical damage to covered Association property)

	ASSOCIATION PROPERTY COVERAGE		REQUIRED?	COVERED?	COMMENTS AND RECOMMENDATIONS
PHYSICAL COMPONENTS OF COMMUNITY	Exterior Components	Office: Building structure including lot and all physical components			<ul style="list-style-type: none"> • Exclusions: <ul style="list-style-type: none"> ➤ Mold, fungus and rot is limited in coverage • Exceeds requirements of Governing documents; • RECOMMENDATIONS: <ul style="list-style-type: none"> <input type="checkbox"/> It is possible to obtain an Additional Building Property Endorsement that can be tailored to include the above excluded items and any other items the Association is obligated or wishes to insure.
		Outdoor Recreation Equipment including Ice Rink/Baseball Diamond/Basket ball Court	No	Yes	
		Bus Shelter	No	Yes	
		Clubhouse	No	Yes	
	Units	Single Family Homes/Lots	No	No	
POLICY SPECIFICS	Full replacement coverage		No	Yes	<ul style="list-style-type: none"> • Deductible = \$500.00 • \$ 328,984 for Office Structure; \$15,057 for Bus Stop; \$18,980 for Warming Hut; and \$12,654 for Out Door Improvements (Hockey Rink, Baseball Diamond and Basket Ball Court per occurrence policy limit • Cost to replace installed kind and quality including upgrades • Exclusions and Exceptions: <ul style="list-style-type: none"> ➤ Building Settlement; earthquake or Earth Movement and flood damage are excluded from the policy. ➤ Terrorism, vandalism and War are also excluded. ➤ \$25,000 maximum benefit for mold, fungi and rot coverage.

HindmanSanchez

				<ul style="list-style-type: none"> Insurance has made no representations that \$328,894 is representative of the value of the Office buildings. Valuations of property are based on replacement cost, which is the lesser of a) policy limit; b) cost of comparable material and quality or; c) amount actually expended to repair. <u>RECOMMENDATIONS:</u> <input type="checkbox"/> <i>If replacement cost exceeds the \$328,984 limit (plus such additional 4% inflation guard specified in the policy limit) for the Office, the Association may be under insured. Therefore, we recommend the buildings be appraised to ensure the policy limits are adequate.</i>
ENDORSEMENTS	Inflation Guard	No	Yes	<ul style="list-style-type: none"> Increases amount of insurance coverage by a specified percentage every year or by the amount of the increase in the cost of living index <u>RECOMMENDATIONS:</u> <input type="checkbox"/> <i>If the cost of construction in the areas exceeds 4% the Association may want to determine if the 4% limit is sufficient</i>
	Demolition Cost	No	No	<ul style="list-style-type: none"> Provides coverage for additional cost incurred when demolition is required and is not specifically set forth in the policy.
	Increased Cost of Construction/Building Ordinance	No	Yes	<ul style="list-style-type: none"> Provides coverage (up to the maximum amount of the specified item) for additional costs of construction when additional upgrades are required by the government when property is being repaired or rebuilt due to a covered loss.

HindmanSanchez

				<ul style="list-style-type: none"> • <u>RECOMMENDATIONS:</u> <ul style="list-style-type: none"> □ <i>The specified limit may not be sufficient to cover the Association. In the event of a partial loss costs for ordinance upgrades can be extensive. The Association should consider increasing this amount.</i>
	Debris removal	No	Yes	<ul style="list-style-type: none"> • Covers additional expense (up to the maximum value of the building) to remove debris of covered property caused by or resulting from a covered loss. Limited to 25% of the total amount of the claim.

HindmanSanchez

	Accounts Receivable	No	Yes	<ul style="list-style-type: none"> Covers lost income (up to the \$50,000 specified limit) resulting from a covered loss. RECOMMENDATIONS: <input type="checkbox"/> <i>The Association should ensure that this is sufficient to cover at least the highest amount of receivables maintained by the Association in the last 12 months.</i>
	Business Income	No	No	<ul style="list-style-type: none"> Covers extra expense incurred as a result of suspension of operations during restoration. RECOMMENDATIONS: <input type="checkbox"/> <i>As the Association's operations are easily moved, this coverage is not needed.</i>
	Commandeered Property	No	Yes	<ul style="list-style-type: none"> Covers for damage to any property commandeered by the Association in case of an emergency. RECOMMENDATIONS: <input type="checkbox"/> <i>As the Association is not authorized to commandeer property, this coverage is not needed.</i>
UMBRELLA COVERAGE (Property)	See Physical Components of Community (above)	No	No	<ul style="list-style-type: none"> The Association has not provided this office with an Umbrella Policy for review. RECOMMENDATIONS: <input type="checkbox"/> <i>If the Association does not have this type of coverage, it should consider obtaining an umbrella policy to act as secondary insurance to covered losses in excess of existing policy limits.</i>

HindmanSanchez

II. GENERAL LIABILITY

What is it?

Protection for claims arising out of the Association's premises, operations, products, or independent contractors, alleging the Association's negligence caused bodily injury and/or property damage to a third party.

	ASSOCIATION REQUIRED LIABILITY COVERAGE		REQUIRED?	COVERED?	COMMENTS AND RECOMMENDATIONS
WITHIN THE COMMUNITY	Incidents occurring in/on Common Areas	Clubhouse	No	Yes	<ul style="list-style-type: none"> • Exclusions: <ul style="list-style-type: none"> ➤ Rock Wall (covered by separate policy) • RECOMMENDATIONS: <ul style="list-style-type: none"> <input type="checkbox"/> The policy limits seem to be set at \$1,000,000 per occurrence and \$3,000,000 aggregate. The Association should consider raising this limit to \$2,000,000 per occurrence.
		Ice Rink / Basketball Courts and Baseball Diamond	No	Yes	
		Parks	No	Yes	
		Green belts	No	Yes	
		Parking lots	No	Yes	
		Basket ball courts	No	Yes	
		Dams and Levies	No	Yes	
	Incidents within or on Lots	No	No	<ul style="list-style-type: none"> • To be covered by Owners 	
Inland Marina	No	Yes	<ul style="list-style-type: none"> • Covers tools and equipment used in connection with the Marina. • Includes debris removal coverage (capped at \$15,000). • Pays for damage to rental equipment. • Excludes standard exclusions (War, terrorism, nuclear activity). 		

HindmanSanchez

INCLUSIONS		No	Yes	
	Liability for personal injuries			<ul style="list-style-type: none"> • Current Policy Limits: <ul style="list-style-type: none"> ➤ \$3,000,000-General Aggregate ➤ \$3,000,000--Product Aggregate ➤ \$1,000,000--Each occurrence limit (property and bodily injury) ➤ \$1,000,000--Personal and Advertising Injury ➤ \$ 10,000--Medical Payments Limit (any one person) • This is an "occurrence" policy meaning that it insures the Association for injuries or damages that occur during the policy terms, regardless of when the claim is made. • Exclusions: <ul style="list-style-type: none"> ➤ claims based on discrimination ➤ claims arising out of refusal to employ or terminate employment. • Coverage for excluded claims may be obtained through an endorsement. • Complies with governing documents
	Activities in connection with ownership and operation of community	No	Yes	<ul style="list-style-type: none"> • RECOMMENDATIONS: <ul style="list-style-type: none"> <input type="checkbox"/> <i>In the event the Association changes the type of policy it currently has to a "claims made" policy (which provides coverage based on when the claim is submitted), we recommend the Association additionally purchase "tail" coverage which is available after expiration of the current policy. Tail coverage is an endorsement covering any claims occurring outside the current policy period and not covered by the subsequent policy because claim is not submitted during that policy period.</i>
	Coverage for slander, libel, and related claims	No	Yes	
	Association as a name insured	No	Yes	
	Owners as additional insured	No	No	
	Manager as additional insured	No	No	

HindmanSanchez

ENDORSEMENTS	Worker's Compensation	No	No	➤The General Liability policy has an exclusion for Worker's Compensation insurance. We understand the Association maintains a separate policy for this coverage.
	Commercial auto liability (no amount specified)	No	No	➤The General Liability policy has an exclusion for Worker's Compensation insurance. We understand the Association maintains a separate policy for this coverage.

HindmanSanchez

	Cross liability	No	No	➤ The policy does not contain any insurance for this coverage.
	Contractual liability	No	No	➤ This coverage is excluded from the Association's policy.
	Products and host liquor liability	No	No	<ul style="list-style-type: none"> • Provides coverage if Association is operating a bar or dispensing alcoholic beverages. • This coverage is excluded from the Association's policy.
	Web extended liability	No	No	No coverage is provided for this liability.
	Terrorism Coverage	No	No	No coverage is provided for this liability.
	Special Events Coverage	No	No	No coverage exists for this coverage.
UMBRELLA COVERAGE (Liability)	See coverage within the community and inclusions above	No	No	No coverage exists for this coverage.

HindmanSanchez

III. PROFESSIONAL ASSOCIATION LIABILITY

What is it? Protection for claims alleging the Board, its directors, or officers have committed a negligent or wrongful act or omission.

	ASSOCIATION COVERAGE	REQUIRED?	COVERED?	COMMENTS AND RECOMMENDATIONS
POLICY INCLUSIONS	Coverage for Directors (past and current)	No	No	<ul style="list-style-type: none"> • <u>RECOMMENDATIONS:</u> <ul style="list-style-type: none"> <input type="checkbox"/> <i>As drafted, the Association's policy does not contain a separate, stand alone Directors and Officers Policy that covers the Board of Directors from actions it takes on behalf of the Association. Rather, the Association's policy is written as a Public and Elected Official's policy. The issue this presents is that Elected Officials have certain governmental immunities that isolate them from certain lawsuits. The Association's board does not have the protection. We strongly recommend purchasing a separate Directors and Officers policy.</i>
	Coverage for Officers (past and current)	No	No	
	Coverage for Committee Members (past and current)	No	No	
	Coverage for managers	No	No	
	Coverage for misc. volunteers (past and current)	No	No	

HindmanSanchez

IV. EMPLOYEE DISHONESTY/FIDELITY

What is it? Protection for loss of Association funds resulting from dishonest acts of the Association's employees, directors, officers, or professional manager, and its employees.

	ASSOCIATION COVERAGE	REQUIRED?	COVERED?	COMMENTS AND RECOMMENDATIONS
POLICY INCLUSIONS	Coverage for directors	No	Yes	<ul style="list-style-type: none"> • Deductible: \$500 per claim • \$10,000 for loss resulting from dishonest acts • Industry standard is to have coverage for a minimum of all current reserves plus three months of assessments. • Pursuant to CCIOA, any community created after July 1, 1992, with 30 or more units, is required to carry fidelity insurance in the aggregate of at least two months assessments, plus reserves. • Exclusions: <ul style="list-style-type: none"> ➤ Does <u>not</u> cover dishonest acts of agents (other than manager) and independent contractors. ➤ Does <u>not</u> include coverage for legal fees or costs associated with covered dishonest acts. ➤ Does not cover loss of confidential information • Covers dishonest acts such as embezzlement, forgery, and alteration. • Includes coverage for manager, non-compensated directors, officers, and volunteers. • The Association also maintains a separate \$25,000 Fidelity Bond for the Association which is in addition to the \$10,000 coverage provided by the insurance policy. • RECOMMENDATIONS: <ul style="list-style-type: none"> ☐ <i>The Board should review the amounts that any Board members or managers have access to on any given occasion to make sure that \$35,000 is adequate coverage. If the</i>
	Coverage for officers (to the extent there are also directors)	No	Yes	
	Coverage for trustees (to the extent there are also directors)	No	Yes	
	Coverage for manager	No	Yes	
	Coverage for any person having access to association funds	No	Yes	
	Coverage sufficient to cover the maximum funds that will be in the control of the covered individuals	No	Unknown	

HindmanSanchez

				<i>\$35,000 is not adequate, we recommend this coverage be increased.</i>
--	--	--	--	---

CONCLUSION

As the Association's governing documents do not require any insurance, the policies that are in place generally cover risks faced by the Association. However, the Association's lack of an umbrella policy for both property damage as well as general liability, should be addressed. Additionally, as the General Liability Policy is written, it is formulated to address "Elected Public Officials". This coverage, unfortunately, leaves large gaps in coverage since the Association is a private, non-profit organization. The Association should investigate and review the availability of a separate Directors and Officers Policy that protects the individual Board members as well as the Manager for their acts. This coverage is lacking from the Association's current policy. Additionally, while the Association does have a current "Fidelity Bond," this bond does not cover some risks faced by the Association and is also limited in coverage to \$25,000. If the Association maintains cash reserves in excess of this amount, we recommend increasing the Association's fidelity coverage. Also, please note our recommendations throughout the report as indicated by bold italicized letters with a checkbox next to each recommendation. Although we provide our comments, we are not insurance professionals and our perspective is from the legal and practical aspects we have observed. We do not offer an opinion as to the adequacy of the amounts of insurance coverage, but rather the types of insurance coverage. We recommend the Association contact an agent specializing in Homeowners Association insurance as well as mountain communities to create a policy that is specifically tailored to your community needs and budget.