

Insurance Advisory Tips for Members

So...who's got the insurance claims?

By Rudy Mak, O.L.S., O.L.I.P. on behalf of the Insurance Advisory Committee

This is my fifth year on the AOLS Insurance Advisory Committee, and that makes me the current Chair of the committee. We normally have three meetings a year to review potential claims, and one meeting to analyse the year's data, review the insurer's terms for the following year, and discuss at length the formulas and methods of how the premiums are determined. The current method that we use to determine premiums was developed probably 15 years ago and is based on a cost per firm plus an additional cost per surveyor in that firm. Other surcharges are based on volume in excess of a minimum and a surcharge for the more risky construction work. There is no direct impact on the basic premium for each firm's experience. Therefore, when there is a paid claim, the insured firm must repay 12% of the claim over six or twelve years as a surcharge depending on the size of the claim. The results of every premium review in the past five years, with input from new committee members each year, confirms that the current method of assessing premiums is the most fair and correct way.

An argument is often made that medium sized firms with two or three OLS's believe they make fewer errors than sole practitioners. The statistics however, do not support that assumption, and in fact, the highest dollar value in claims comes from this group of firms with 2 or 3 OLSs.

With three meetings per year where an average of 35 potential claims per meeting are reviewed, I have seen the details of over 500 potential claims during my tenure. Too many potential claims risk loss of coverage because of late reporting.

Our policy rules require that the insured must quickly report any potential claim, so, the best policy is to report on the first tangible evidence of a possible problem. There is no downside to reporting a potential claim. It will not impact on your premium and it could very well make the difference in addressing an issue early to mitigate costs, determine responsibility and encourage reasonable settlement.

There are a lot of misconceptions about errors and who makes them and why. The statistics show consistently that construction layout errors result in 60% to 70% of all claims, so I will address this first. The Number 1 error that is on every docket is incorrect elevations - for a house, condo, or engineering work, etc. By far, this is the leading cause of claims. Many claims result from the survey crew using a bench mark they assume to be a good site bench mark or the failure to confirm a bench mark elevation by closing to an independent bench mark. Some calculate a wrong height of instrument, some misinterpret drawings and set wrong elevations, many calculate the cut wrong and so forth. Another common mistake is the use of fire hydrants as bench marks only to discover later that all the fire hydrants had been raised by the same amount with an equal sized spacer. Site bench marks set by others may not be geodetic and some surveyors bring in geodetic and don't check the engineering site bench mark. They all have one thing in common. A little checking would have prevented the error. If you remember nothing else about



this article, remember that your future could be a thousand times brighter if you establish an absolute rigid policy of at least one INDEPENDENT check each and every time you carry elevations; not two hydrants, not two control points set at the same time; and then ask yourself, does it make sense compared to the site bench mark and engineering drawings? Record the results on

field notes, not just in the data collector, so the crew and the office staff can see the check. A significant error, or even no error at all, but no proof of your steps, can take you through years of stressful litigation.

What we wonder at the committee meetings is why there are firms that keep making the same error over and over again causing our policy to pay out on claims that could have been prevented.

The second most common construction mistake is layout

error and again, sometimes it is misinterpretation of drawings. If an architect's digital drawing has 197 layers and if he or she has got information mixed throughout the file, the surveyor should request a clean digital file from the architect that clearly shows what is needed. Keep a copy of what you are supplied. Make checks in the calculations and clearly communicate to the client what you are providing. Then ensure that your crew does all those checks that you require them to. You may have told them a hundred times to check, but, it's raining, and cold and there are eight more to do before the end of the day so, the check is not done. Then the day's field work is not checked by the office staff, and 45 days later the building is up but calculations show an encroachment, the crew checks and finally confirms that original error. The surveyor tells the client not to worry, he or she will get a minor variance, but, 6 weeks later, just before the hearing, the building department finds out the house is seven feet from the neighbour's house instead of eight and there are 6 windows on that side of the house. That's when the surveyor decides to call the insurer.

Had that error been discovered earlier, the almost standard process is to take the foundation out and do it again. Time required is about a week and the cost is about \$15,000. The compound effect of an additional 45 days may have resulted in \$40,000 in damages. The third mistake of allowing construction to be completed and

believing a minor variance would solve the problem creates a \$200,000 problem and the surveyor may not be covered by insurance at all since the issue was not reported when it was first discovered.

With respect to cadastral surveys, the most common error is inadequate research, which results in boundaries being re-established incorrectly. Another problem easily solved by doing what we're supposed to do anyway. There is no next "common" type of error but lots of unique and very interesting ones. Caution and checking is always the key, but sometimes, no matter how good or thorough one is, a situation pops up. That is why we have such insurance to protect our clients and ourselves. As a professional, your first course of action is to immediately investigate and communicate. Call Maltmans and let them guide you from there. That's why we have them. Never try to resolve an issue on your own unless you're prepared to forgo your insurance.

The Insurance Advisory Committee has to be one of the most interesting and rewarding committees within our association. Through the lessons learned, I have changed many of my own practices and through the history of claims I know that there are firms out there that need to think about these basics and institute change themselves.

