April 4, 2014 Issue 5

Risk Advisor

Utah Risk Management Mutual Association

In This Issue:

The will
to win, the desire
to succeed,
the urge to reach
your full potential…
these are the keys
that will unlock
the door to
personal excellence.

Confucius

All,

I am looking forward to you attending our annual conference June 25-27 in Logan. Please make plans to attend and bring the appropriate employees from your city. We have many important issues to share and discuss. I hope that each city has set up a time for the URMMA staff to present to your city councils . If not, please contact Dean. Enjoy the Spring!

Mark Johnson
Board Chairman

Save the date:

June 25-27, 2014 Annual Summer Conference/Board Meeting

The Board voted to go to Logan— Watch for details at www.urmma.org

URMMA & Transparency

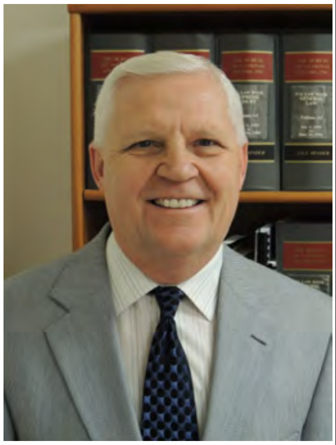
Transparency has become a favorite buzz-word in the political world, especially here in Utah. Interestingly, URMMA's philosophy has always been one of transparency and our policies and procedures reflect that philosophy. Let me explain.

The budget is presented in a forthright manner so that members have a clear picture of the programs implemented and their associated costs. Likewise, the premium is a mirror image of those costs.

Each city can easily understand how their premium is calculated based on the following four categories:

1. Earned premium
2. Membership fees
3. Reinsurance premium (passed on to the reinsurer)
4. Recaptured loss

There are no games played. We do not attempt to "buy" business or play favorites. Therefore, no city pays a disproportionate share so that another city has a break or advantage. The member cities of URMMA are a true pool, sharing costs in an equal and proportionate way.



Dean Steel, CEO

(cont'd on page 3)

2014 Risk Management Conference

May 21-22, 2014— The Yarrow, Park City

***Save the Date!!!**

Featuring Dr. Marianne M. Jennings—

"What Do Government Agencies, Employees, and Officials Miss About Ethics That Gets Them Into the Headlines?"

Professor Marianne Jennings is an emeritus profession of legal and ethical studies in business from the W.P. Carey School of Business at Arizona State University, having retired in 2011 after 35 years of teaching there. She continues to teach graduate courses in business ethics at colleges around the country.

Dr. Daniel Chase —

"Restoring Honor of Public Service"

Dr. Chase earned an M.P.A. from BYU emphasizing in organization behavior and HR and is currently a doctoral candidate (ABD) at the University of Utah with a research emphasis on organizational and public leadership.

Camille Johnson, Esq. — Snow, Christensen & Martineau

"HR Update"

Ms. Johnson is a litigation partner whose practice primarily involves the defense of employment and pharmaceutical claims. She frequently represents URMMA cities in defending personnel claims.

Kellie G. Openshaw —

"Financial Security: It's Not A Plan, It's A Strategy"

Kellie G. Openshaw specializes in helping clients protect, build and preserve their wealth—while creating a strategy that allows them to spend and enjoy their money at all stages of life. She holds an undergraduate degree from the University of Utah and graduated from the Executive MBA program at BYU.

***Find complete details and registration information available April 15 on www.urmma.org**

(URMMA & Transparency continued from page 1)

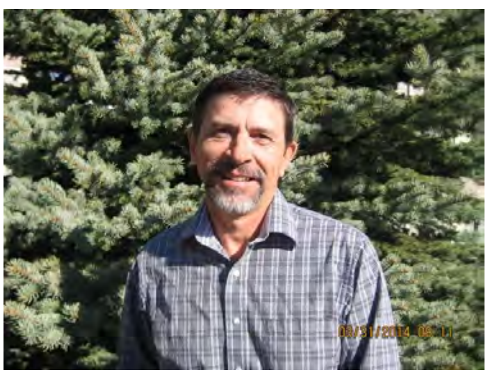
Another example of transparency is the recaptured loss program. Losses are paid back as they occur. Losses above the deductible are paid back as a five-year interest free loan. Only the amounts expended on the claim are paid back. When there is a catastrophic loss which triggers the capped loss formula, it is clear what amount is shared by the pool from surplus, and what amount is paid back by the city.
URMMA Members have never been billed or called upon to pay for the losses of other cities.

I like this statement made by our broker, Mr. Kery Oldroyd, "You own the insurance company. Years ago great minds came together and devised a successful program, has put money in the bank, and serves your needs."

It has been a pleasant experience to visit your cities, share a few things about URMMA that makes it a great organization and leave a dividend equivalent to 20% of your 2013-14 earned premium and membership fees.

Thanks for all your efforts to make your cities better and to make URMMA a great indemnity pool.

How to Get the Most Out of Your URMMA Inspection



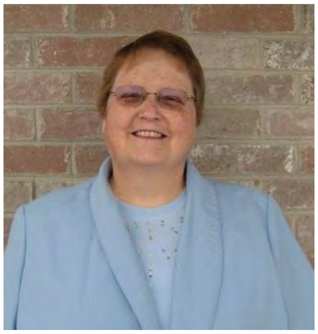
Carl R. Parker
Loss Control Manager

As we all enjoy the coming of spring, it's time to consider how we can grow and improve our risk programs. The inspection was established to provide each entity with a measuring stick to determine how they compare against some basic risk areas. It is a time to bring all of your employees in any given department together to discuss risk management and how it applies to them.

We can talk and train about risk management all day long, but spending personal time, in the field, directly with the responsible employees by far has the most impact. How does what they do on a daily basis impact the city's risk culture? May I suggest the following ideas to maximize your inspection experience:

1. Involve as many employees as possible. Get the experience down to the folks. We need their ideas and help. Let's together develop many mini risk managers.
2. Determine ahead of time those areas where you need to pay particular attention.
3. Set meaningful individual goals.

Remember, this is not about success or failure based on a score, but steady growth and improvement for our communities.



Kathy Kenison
Administrative Services Mgr.

Why Do I Have to Pay My Loss Back??

Insurance Premiums Demystified

Over the last few months I've had a number of people ask me why URMMA Members have to repay their losses? Why doesn't their premium cover their losses? The truth is that losses are part of premium. To help me better explain this concept, I'd like to use an analogy of our personal insurance – car, home, etc.

What Do Commercial Premiums Include?

Have you every asked yourself what your insurance premium includes? Most people would say that it buys coverage for whatever they are insuring. That's certainly true. Insurance companies, like any business, have basic expenses: personnel costs, operational costs, claims costs and profit or increase in surplus. Insurance premiums are determined by estimating personnel and operational costs, and projecting losses, usually with the help of an actuarial (statistical) study. Because you are purchasing coverage for a time period in the future, i.e. the next 12 months, the actuary will look at previous losses, usually of the prior five years, and then make a statistical projection of what he thinks all losses for the company will be for the next 12 months. Since he only gets one opportunity to project losses for that year, he will project on the high side. The underwriters take these pieces of information – personnel costs, operational costs, profit projections and claims costs projections – and allocate a premium or portion of the total cost to each insured. This type of premium calculation is called prospective premium and is the most common type of premium in the insurance world. If you have high frequency or high severity of losses, the projections will be proportionately higher. Frequency and severity are key factors in premium projection.

What About Deductibles?

We all pay for ALL of our loss costs, whether we pay a deductible or not. Our personal insurance offers discounts or lower premiums if we are willing to take a higher deductible. Since the insured will pay the first dollars as deductible, the premium is reduced because the amount of money that the company will ultimately have to pay for any given loss is reduced, and they don't have to recoup as much money. Some companies offer no deductible and that sounds extremely appealing. Remember, you still have to pay the total cost of your loss. For plans where no deductible is charged, they simply include **ALL** of the loss in the premium calculation. The bottom line is that you have to collect at least as much as you are going to pay out in claims. There is no magic pot of gold that the company uses to pay the deductible portion.

(Insurance Premiums Demystified cont'd on page 5)

(Insurance Premiums Demystified cont'd from page 4)

What About Discounts?

As I watch the various television ads for insurance, I hear many claims: "15 minutes will save you 15% on your car insurance; change your insurance every few years to get the best bid; go accident free for a certain period of time and they will lower your deductible or give you some sort of 'safe driver rebate'". All of these advertising gimmicks are possible because of the high loss projection for prospective premium. Unfortunately, prospective premiums rarely decrease without a recession or some other major event. Instead, they use terms that make us feel good: rebates, dividends, incentives, lower premium quotes if you change carriers. The problem is that those incentives or rewards are short lived. When the market hardens, those types of discounts usually go away.

How is URMMA Different?

What Does the URMMA Premium Include?

URMMA premium includes the same elements that every insurance company has: personnel costs, operational costs, and loss expenses. But our Board of Directors (comprised of City Managers) wanted to find a way to pay for claims without having to charge a lot of money up front. Our policy asks Members to simply reimburse the claim funds that URMMA pays on their behalf. We do not project losses and aim high so that we will have enough to cover all losses for the year. Instead, we fund losses from a reserve fund and then ask the Members to reimburse the fund. The repayments are made at 20% per year over a five year period, interest free. The loss portion of the premium shows each city exactly which claims we have paid on their behalf, the amount of the claim, and the repayment amount for each year. Once all funds for a claim have been repaid, the loss portion of the premium is reduced. This type of premium calculation is called retrospective premium, meaning that losses are reimbursed rather than projected. At URMMA, we call it recaptured losses.

What About Deductibles?

URMMA Members have chosen to pay deductibles based on their group size. The deductible helps the city settle small claims and get them off the books. Remember, every insurance company includes ALL costs as part of the claim loss, whether part of it is paid as deductible or not. One of the great benefits according to our Board of Directors is that a deductible gets the city's attention about the loss. Rather than just blow it off as "something the insurance company takes care of," it brings the loss to the department's attention, especially if the city takes the deductible from the respective department's budget. This reduces the amount of money the department has for other uses. It brings home the point that all city employees should be actively involved in risk management.

(Insurance Premiums Demystified cont'd on page 6)

(Insurance Premiums Demystified cont'd from page 5)

What About Discounts?

URMMA's Board has talked about charging a higher premium and then giving a dividend every year as a "feel good incentive," but they unanimously decided that they would rather keep the money in the city coffers and just have lower premiums. One of the values of retrospective premium is that you are paying ***exactly*** what the loss cost, not a higher projection. This keeps premiums low. Granted, you don't get the thrill of a dividend, but do you really want to pay more and get the reward later?

How Can A City Reduce Their Premium?

Since URMMA members pay their own losses rather than sharing everyone's losses, they have an opportunity to reduce their premium. We believe that a city can control their losses and keep their premium low. Our programs help them accomplish that task. If every employee in the city incorporates risk management into their job, they can reduce accidents and losses. Gordon Graham, a nationally recognized risk management speaker always says, "If it's predictable, it's preventable." Most, if not all losses are predictable and therefore preventable. Alert and careful employees can prevent losses and therefore reduce premiums.

Remember, **EVERY** insurance company has to charge enough to cover **ALL** their losses, or they will go out of business. Being proactive, incorporating risk management to reduce losses, is the most effective and long term way to reduce losses.

Paul Johnson
Claims & Litigation Mgr.

Sidewalk Trouble

Do any of your cities have rotten sidewalks? Crumbling, decrepit and defective sidewalks riddled with cracks, holes and deviations in elevation? Don't tell any plaintiffs attorneys, because the Utah Supreme Court just gave them a huge boost in their ability to nail us when a hapless, non-observant citizen biffs on one of our less-than-pristine sidewalks.

We have always had several good defenses when faced with a trip and fall case: We had no notice of the defect, therefore, no duty to repair it. The failure to repair was due to a high-level policy decision involving the allocation of funds to matters other than sidewalk repair, giving us immunity for the exercise of a discretionary function. The failure to repair was due to a failure to inspect or negligent inspection, for which we also have immunity. The victim was texting as he was walking and didn't pay attention to what was an open and obvious hazard, making his comparative negligence greater than 50%.

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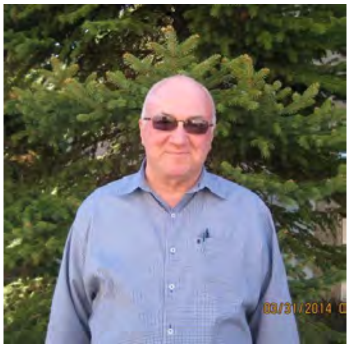


Lyle Kunz
Claims Adjuster

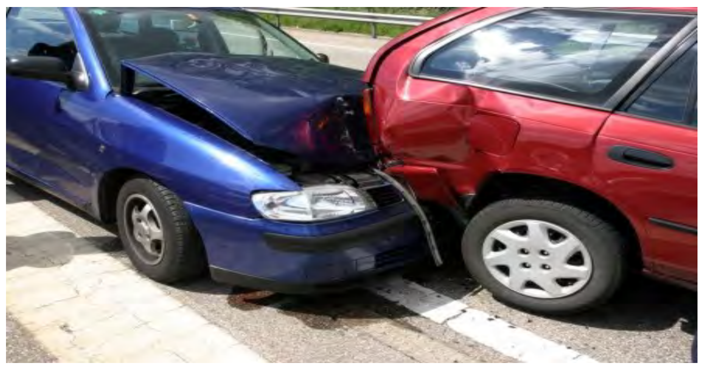
Claims Adjuster?

Very few people ever set out to be a claims adjuster. Those of you who work in Human Resources, Risk Management, Legal or City Administration probably never thought you would someday have "claims adjuster" as part of your job description.

Insurance has been around for a long time. The average person may think that insurance coverage is a relatively new concept that came along at about the same time as the industrial revolution. The concept of insurance has a history that can be traced back over a thousand years. Early ship builders and the whole shipping industry used a form of insurance to protect cargo that was damaged when ships would sink or when cargo had to be jettisoned to keep the boats afloat.

Insurance adjusting involves three steps that are then applied to three different areas of a claim. Those three steps are:

1. Investigating
2. Evaluating
3. Negotiating



The areas of a claim that these steps are applied to are:

1. Coverage
2. Liability
3. Damages

Coverage is the insurance contract between parties that determines what types of risks are going to be covered. Liability is determining who is responsible for the incident that has occurred. Damage is determining the value of the broken item, whether it be a damaged piece of furniture or a broken arm.

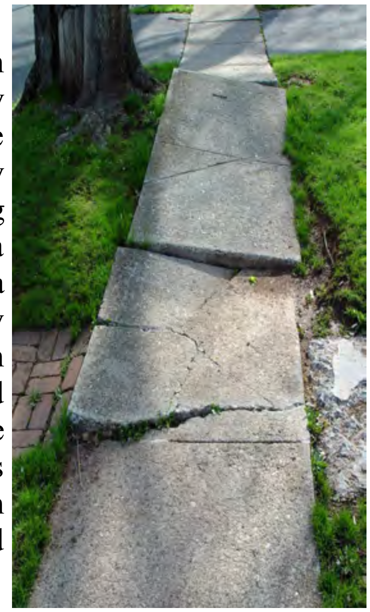
The most important part of your job as a claims adjuster is your ability to bring two parties of a dispute to a consensus and getting a claim settled. Sometimes it is easy to assess damage and negotiate a settlement. Sometimes it is difficult.

I commend those of you who are involved as claims adjusters and your ability to be peacemakers and bring claims to successful conclusions.

Strive not to be a success,
But rather to be of value.
Albert Einstein

(Sidewalk Trouble cont'd from page 6)

Then there was an oc**Kerr**unce in Salt Lake City and a resultant Supreme Court decision (Kerr v. SLC) handed down in December. Here are the facts: There was a ¾ inch to 1¼ inch deviation between two sidewalk sections in front of an inn. The owner of the inn noticed that his laundry carts kept getting hung up on the deviation. He had his people call SLC. A public works person responded and saw the defect. Within 7 days of the initial notice, SLC gave an estimate to the inn that it would cost $546 to replace, and the City would do it if the inn paid for it. According to the policy in effect, another alternative would be for the city to saw-cut the deviation to smooth it out, or if deemed hazardous enough, barricade it and then replace it at city cost. The day after SLC prepared the cost estimate, Mr. Kerr crashed and burned on the sidewalk. At trial, the inn owner testified that the defect had been there the entire time he owned the property, which was 1½ years. The jury returned a verdict against the City.



The Supreme Court gave a lengthy and somewhat complex opinion on the matter when the city appealed. Without troubling you with the nitty gritty details of the opinion (your city attorney will be glad to do that for you), here are a few of the comments by the court that trouble me: There is no discretionary function immunity for decisions that are not made at a broad policy-making level. This had nothing to do with the City's allocation of funds, it was simply a decision by a lower-echelon employee implementing the policy. That is not a change in the law, but we have argued in the past that it's a discretionary function to decide where to spend tax dollars, including how much to spend on sidewalk repair. Also not new was the announcement that we could be charged with either ***actual*** notice or ***constructive*** notice. What is troubling is that the Court said that evidence that a defect existed for at least a year and a half was sufficient constructive notice. In other words, if a plaintiff can prove with concrete evidence that the problem has existed for awhile, we're on notice and have a duty to repair.

How many of you have terrible sidewalks that you know have existed for at least a 1½ years? Fix them. (Kidding. That's impossible!

Is the Court implying that we have to be the guarantors of the safety of all our citizens shuffling along our sidewalks? Not exactly, but some feel that it's a step in that direction. There is no sure way to avoid liability without fixing all the broken ones. But maybe there's some hope for us. It may be wise to consult with your city attorney on the advisability of taking an ordinance or resolution to your council adopting a policy on sidewalk repair which details the criteria for fixing them. Do not leave the determination of the hazardousness to an employee (Salt Lake's mistake). Get the Council to give you ***more*** money for sidewalk repair (we can all dream). Have an inspection program, with a priority listing of which problems will be fixed first. The priority criteria should be set forth in the Council's resolution.

This will not guarantee a win, and I'm afraid these types of cases are going to end up in the hands of juries, rather than being decided on a Motion for Summary Judgment. It would be really helpful to get a legislative fix in the Utah Governmental Immunity Act next January. Anybody interested in championing that cause? This issue is going to take some real study and discussion and will likely be a topic in our summer conference in June. Just don't let anybody fall in the meantime.