

# Insuring Condominium Property and Liability Exposures



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*Insurance Journal's Academy of Insurance Training Series*  
Insuring Condominium Property and Liability Exposures  
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# The Academy of Insurance's Online Professional Training Series

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# Condo Coverage Agenda

- Two Main Questions to Correctly Construct Condominium Property Coverage
- Three Levels of Associational Responsibility
- Four Real Property Definitions Relevant to Condominium Property Coverage
- Defined Levels of Associational Responsibility
- How the Flood Policy Manages the Condominium Risk
- Statutes and Coverage Responsibility
- Values Assignable to Condominium Property
- Managing the Association and Unit Owner Liability Exposure
- The Information Required to Provide Proper Protection for the Association and the Unit Owner



# Condo **Property** Coverage's Two Main Questions

Who is **responsible** for what property?



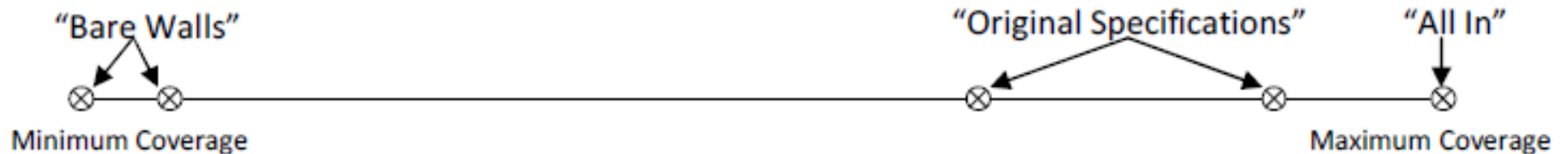
What is the **value** of the insured property?

# Levels of **Associational** Responsibility

“All In”

“Bare Walls”

“Original Specifications”



Condominium Insurable “Real Property” Coverage Spectrum



# Definitions Related to **Associational** Responsibility

“Common Elements”:



“Limited Common Elements”:



“Unit Property”:



“Unit Improvements and Betterments”:



# Examples of Unit Property Definitions

SECTION 2-102. UNIT BOUNDARIES. Except as provided by the declaration:

- (1) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.
- (2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.
- (3) Subject to paragraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.
- (4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

IV. UNIT BOUNDARIES: The boundaries of each Unit are as follows:

A. Upper and Lower (horizontal) Boundaries: The upper and lower boundaries of the Unit are the following boundaries

extended to an intersection with the vertical (perimetric)

boundaries:

1. Upper Boundary: The horizontal plane of the bottom surface of the wood joists of the ceiling except where there is a dropped ceiling, in which location the upper boundary is the horizontal plane which includes the top surface of the wallboard of the dropped ceiling.
2. Lower Boundary: The horizontal plane of the underside of the finished wood flooring.

B. Vertical (perimetric) Boundaries: The vertical boundaries of the Unit are the vertical planes which include the back surface of the wallboard of all walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries....



# Definitions Related to **Associational** Responsibility

“Common Elements”:



“Limited Common Elements”:



“Unit Property”:



“Unit Improvements and Betterments”:





# Defined Levels of **Associational** Responsibility

## “All In” – Responsibility:

- Association:
- Unit Owner:

## “Bare Walls” – Responsibility:

- Association:
- Unit Owner:

## “Original Specifications” – Responsibility:

- Association:
- Unit Owner:



# Flood Insurance and **Associational** Responsibility

Residential Condominium Building Association Policy (**RCBAP**) and FEMA Rule IV:

- *"The entire building is covered under one policy, including both the common as well as individually owned building elements within the units, improvements within the units, and contents owned in common. Contents owned by individual unit owners should be insured under an individual unit owner's Dwelling Form."*



# Statutory Default Setting

In unit ownership situations, **statutes** defining associational responsibility apply **ONLY IF** these duties are not defined in associational documents.

Alabama	35-8A	Louisiana	RS9	Ohio	5311
Alaska	AS 34.08	Maine	33.10	Oklahoma	Title 60; Chap. 11
Arizona	33	Maryland	RP 11	Oregon	Ch. 100
Arkansas	18.13	Massachusetts	II - 183A	Pennsylvania	68.3312
California	1371	Michigan	Act 59	Rhode Island	34-36
Colorado	38-33	Minnesota	515	South Carolina	27-31
Connecticut	47-828	Mississippi	89.9	South Dakota	43-15A
Delaware	25.22	Missouri	29.448	Tennessee	66-27
Florida	718.111	Montana	70.23	Texas	Prop. Title 7.82
Georgia	44.3.3	Nebraska	76	Utah	57-8
Hawaii	514B	Nevada	116-1	Vermont	27-15
Idaho	55.15	New Hampshire	Title XXXI 356B	Virginia	55-4.2-79
Illinois	765.605	New Jersey	46.8B	Washington	64-34
Indiana	32.25	New Mexico	47-7C	West Virginia	36A-8
Iowa	499B	New York	9B-339	Wisconsin	Ch. 703
Kansas	58.31	North Carolina	47C-2-102	Wyoming	34-20
Kentucky	381	North Dakota	47-04		



# What's it **Worth**?

The answer depends on the defined value (either within the associational documents, statutes or policy form):

- Actual Cash Value (ACV):
- Replacement Cost (RC):
- Market Value:



# Property **Values** Based on **Associational** Responsibility

“All In”

“Bare Walls”

“Original Specifications”



# Managing the **Association's** and **Unit Owner's** Liability Exposure

Based on the concept of “Legal Liability”:

Association and Unit Owners are “Mutual Beneficiaries”

- Liability placed on the association
  - Potential assessment problems for the unit owner
- Liability placed on the unit owner
  - Limits problems
- Jointly liable
  - Limit gaps between association and unit owner
  - The state's application of “Joint and Several” Liability



# Assigning Liability

## Where did the injury occur?

- Common Elements:
- Limited Common Elements:
- Unit Property:

**Disclaimer:** This cannot be construed as legal advice.



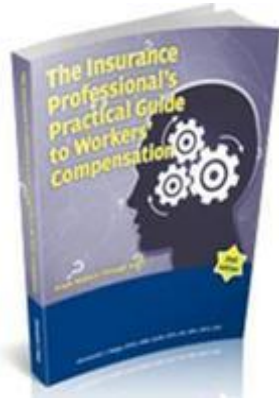
# Completing the Condominium Picture

- A copy of the association's declarations or covenants, conditions and restrictions (CCR's).
- A copy of the applicable state statute.
- An official letter documenting the definition of a unit's boundaries detailing who is responsible for insuring which property.
- A verifiable or signed property valuation calculation.





# Books Available from the Academy



The Insurance Professionals'  
Practical Guide to Workers'  
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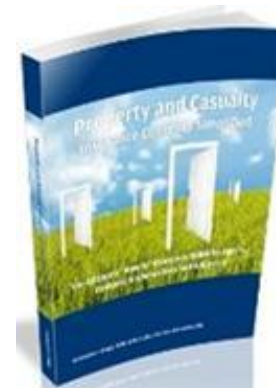
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