

Insurance Insights

by Ken Furst and Jason Schiciano

Levitt-Furst Associates



The Umbrella Liability Policy – What It Is and What It Is Not

TARRYTOWN

Most business members of The Builders Institute (BI)/Building and Realty Institute (BRI) either have, or should have, an Umbrella Liability insurance policy to protect their respective businesses.

That said, we know from the questions that we often get at Levitt-Furst Associates that the Umbrella policy is one of the most misunderstood of all the commercial insurance policies available to businesses.

Business owners understand - the "Property" insurance policy protects property (surprise!), such as buildings, office furniture, and inventory, from damage (e.g., due to fire, storms, etc.).

The "General Liability" policy protects the business from legal liability (surprise again!) from lawsuits (e.g., from a slip-and-fall occurring at the business). The "Commercial Auto" policy responds to claims involving automobiles (another shocking surprise!), such as damage to a vehicle or legal liability (e.g., due to a collision with another vehicle).

But, the purpose of the "Umbrella" policy is not as intuitive, based just on the name. After all, we know that an Umbrella Liability policy does not protect us against Umbrellas! The name "Umbrella" implies that the policy "covers" over everything, which leads many to an incorrect perception, and questions such as: "If there isn't enough money from my Property insurance to rebuild my apartment building after a fire, then won't my Umbrella policy make-up the difference?"

Or, "If I don't have a Pollution Liability policy, will my Umbrella policy respond to a fuel oil tank leak?"

Clearing Up

Let's clear-up some misconceptions about the Umbrella insurance policy. First, what is an Umbrella policy? In simple terms, an Umbrella insurance policy is an extra liability policy (your insurance broker may refer to an "Excess Liability" policy). While there are technical differences between an Umbrella Liability policy and an Excess Liability policy, for purposes of this article, let's agree that these policies serve essentially the same purpose.

The Umbrella (Excess) Liability policy provides extra insurance protection (i.e., additional insurance limits) to pay for expenses resulting from certain types of liability claims. Liability claims can include a lawsuit from a person that was injured by a slip-and-fall while at your place of business, or a lawsuit from a driver that was seriously injured in an automobile accident when your employee ran a red light. Expenses from these liability claims, which may be covered by the Umbrella Liability policy, include legal/attorney defense costs, and legal judgements or settlements.

For a slip-and-fall or automobile-related lawsuit, your business's General Liability or Commercial Auto policy, respectively, would pay, for instance, the first \$1,000,000 of covered expenses. If legal costs and the judgement/settlement exceed \$1,000,000, the Umbrella Liability policy would pay for the additional costs, up to the amount of the Umbrella Liability limit. Umbrella limits can range from \$1,000,000 to \$200,000,000. The type and size of business, and the cost of the Umbrella policy, are key factors in choosing the Umbrella limit.

Important Facts

Importantly, the Umbrella policy will typically only respond after another policy - the "underlying policy" (e.g., the General Liability or Commercial Auto policy) - has paid its full limit, and then only if the underlying policy has been scheduled/listed on the Umbrella policy. The underlying policy limit must also meet the minimum amount required by the Umbrella. If the Umbrella policy requires a \$1,000,000 underlying Commercial Auto policy limit, and you only have a \$500,000 limit, then your business will have to pay the \$500,000 shortfall, before the Umbrella policy will begin paying.

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From the Editor's Desk

Hanley's Highlights

by Jeff Hanley

Associate Director, Building and Realty Institute (BRI), *Impact* Editor

The Pace Remains Busy for the Building and Realty Institute and Its Staff Through The Summer Months!

ARMONK

The days of summer, for many, provide a bit of a decrease in their respective workloads. That has not been the case at The Building and Realty Institute (BRI).

The staff of our association has maintained a hectic pace through the days of June, July and August. Whether through monitoring legislative issues affecting the building, realty and construction industry, planning the future events of our organization, providing our usual series of Membership Benefits, or advocating on behalf of the BRI, the staff of our association has been busy. Make that very, very busy.

A look at some of the reports in this issue of *IMPACT* offers proof of that hectic pace. Those articles include:

❖ A review of some of the many recent meetings, seminars and events of the BRI in our *IMPACTIVITY* section. A photo montage is featured in the report.

❖ An End-of-Session Summary on the BRI's statewide legislative efforts. The report, which begins on page one, was written by Glenn Riddell of The Riddell Group, the BRI's lobbying consultant, and Albert Annunziata, the executive director of our organization. The comprehensive summary, which cites how proposed bills threatening co-ops and other BRI interests were brought to a standstill in Albany due to the efforts of our association, begins on page one.

❖ An update on the continuing success of "Building Knowledge with the BRI," our organization's weekly radio show on WVOX 1460 AM and wvox.com. The program, which airs every Friday from 11:30 a.m. to 12 noon, recently celebrated its one-year anniversary. The show profiles BRI members, as well as conditions affecting the building, realty and construction industry. A photo report on some of the many successful broadcasts of "Building Knowledge" is featured in the update.

❖ A Page One report on the recent decision of The Westchester County Rent Guidelines Board on guideline increases for renewal leases affected by The Emergency Tenant Protection Act (ETPA). The article summarizes the efforts of The Apartment Owners Advisory Council (AOAC) of the BRI and the staff of the associations in covering the activities of the guidelines board, which eventually issued a 2 percent increase for a One-Year Lease Renewal and a 3 percent increase for a Two-Year Lease Renewal.

❖ An interesting Question-and-Answer Session between Maggie Collins, the BRI's director of membership, and Justin DePhillips, general manager of the Poughkeepsie office of Tradesmen International. The report highlights the important contributions that Tradesmen International, a BRI member, makes to the building, realty and construction industry. It also offers a glimpse on some of the recent conditions of our industry.

❖ An article on a Jun. 7 event where The New York State Homes and Community Renewal (HCR) agency and BRI member Wilder Balter announced the completion of a \$21 million affordable housing development in the Chappaqua section of the Town of New Castle. The development renovated the iconic Reader's Digest headquarters building to create 64 mixed-income apartments. Developed by Wilder Balter, the project - known as Chappaqua Crossing - is on a sprawling campus that will eventually include a variety of retail and commercial spaces. BRI staff attended the event.

Co-op and Condo Corner



By Diana Virrill, Chair

The Cooperative and Condominium Advisory Council (CCAC)

CCAC Members: You Can Believe That "The Beat Definitely Goes On!"

ARMONK

Since the last issue of *IMPACT* Newspaper, The Cooperative and Condominium Advisory Council (CCAC) - with the unwavering support of The Building and Realty Institute (BRI) - has consistently been voicing the opposition of our associations to proposed legislation from The Westchester County Board of Legislators that, to say the least, is troubling.

The proposal mandates co-op boards to release reasons for the rejections of proposed shareholders. The proposal also calls for co-op boards to issue their decisions on prospective shareholders within a 45-day period.

Representatives of the CCAC and the BRI have attended a series of meetings with The Westchester County Board of Legislators on the proposal. Many in-depth conversations with individual legislators and the members of the Board of Legislators have been held. Simply put, the "Beat Goes On" as the CCAC and the BRI are consistently citing the many negatives of this proposed legislation.

At stake is the misconception that co-ops (private corporations) are not fairly interviewing prospective shareholders in a timely manner. There is also the misconception that co-op boards are unfairly turning down applicants. And, also at stake is the ability of co-op boards to select shareholders who are best qualified to financially support the co-op corporation.

The CCAC and the BRI are spending enormous amounts of time and effort to correct these misconceptions. Full information on this issue can be found at <http://www.dont-killwestchestercoops.org/>.

As the CCAC and the BRI continue to work on this issue, CCAC and BRI members should be assured that the staff of our associations is always available to meet the concerns of the members of our organizations. And that remains true during the summer months! The CCAC, as always, offers the following services:

- ◆ Networking - Belonging to the CCAC means that co-op and condo boards have the opportunities to meet with other board members from co-ops and condos in Westchester and the Mid-Hudson Region. It also means exposure to new ideas and experiences from your peers, as well as advice from experts. As a member of the CCAC, board members also belong to the BRI and, accordingly, have access to its considerable sources and contacts within the real estate community.
- ◆ Insurance - Membership in the CCAC provides co-ops and condos with access to New York State Workers Compensation Group 530. More than 490 co-ops and condos are members of the group, which helps cut the high costs of compensation insurance. And, other insurance services are available through our association's insurance manager, Levitt-Furst Associates. Full information can be obtained by calling Levitt-Furst Associates at (914) 457-4200.

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News for the Building and Realty Industries

Impact

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SUBSCRIPTION is \$20 per year, included in membership dues.

IMPACT (USPS 259-900) is published bi-monthly by The Builders Institute/Building and Realty Institute. Periodicals Postage Pending at Armonk, NY.

POSTMASTER: Send address changes to IMPACT, 80 Business Park Drive, Suite 309, Armonk, NY 10504.

DEVELOPMENT CASE STUDY:

Opening of Chappaqua Crossing Apartments Marks the Start of A New Chapter At The Former Reader's Digest Property

Original Headquarters Transformed into 64 Mixed-Income Homes

New York State Homes and Community Renewal (HCR) and Wilder Balter Partners on Jun. 7 announced the completion of a \$21 million affordable housing development in the Chappaqua section of the Town of New Castle.

The development renovated the iconic Reader's Digest headquarters building to create 64 mixed-income apartments. Developed by Wilder Balter, Chappaqua Crossing is on a sprawling campus that will include a variety of retail and commercial spaces and is also close to the Chappaqua Metro-North train station and Saw Mill Parkway, project officials said.

RuthAnne Visnauskas, commissioner of HCR, said: "Chappaqua Crossing creates a diverse and transit-oriented community in Chappaqua, while also preserving a beloved historic building. Developments like this are springing up across New York State to provide New Yorkers with safe, affordable housing and the economic opportunity that comes with it."

Wilder Balter President Bill Balter added: "The moment I first walked through, I realized it was an incredible structure with a rich history. As builders, we embraced the challenge of retaining the special architectural details, while incorporating the modern amenities necessary to create a unique and highly desirable living environment. Our company has built thousands of homes, condos and apartments, but this presented a unique opportunity to work outside the box and we are extremely proud of the way it came together."

The development complements Gov. Cuomo's unprecedented \$20 billion, five-year Housing Plan, which is making housing accessible and combating homelessness by building and preserving 112,000 affordable homes and 6,000 supportive homes, spokesmen said. The plan is a comprehensive approach to statewide housing issues and includes multifamily and single-family housing, community development, and rent stabilization, spokesmen added.

The original Georgian-style brick building, with its signature cupola, opened in 1939 and for seven decades served as the headquarters for the Reader's Digest magazine and associated businesses. The conversion included the restoration and preservation of both the company's wood-paneled reference library and its stately formal entrance rotunda, while, at the same time, introducing creatively designed living spaces, officials said.

The development offers a mix of one, two, and three-bedrooms, with 38 affordable to low and moderate-income residents who meet a variety of income-eligibility levels, and 26 available at market-rate, officials added.



New York State Homes and Community Renewal (HCR) and Wilder Balter Partners announced on Jun. 7 the completion of a \$21 million affordable housing development in the Chappaqua section of the Town of New Castle. The Chappaqua Crossing Apartments, located in the renovated Cupola Building of the iconic Reader's Digest headquarters property, include 64 mixed-income apartments on a sprawling campus that will also include a variety of retail and commercial spaces, officials said. Pictured left to right are: Tricia Yarger, director, Municipal Securities Division, Citi Community Capital; Robert H. Wilder, Jr., principal, Wilder Balter Partners; RuthAnne Visnauskas, commissioner/ chief executive officer, HCR; Bill Balter, president, Wilder Balter Partners; Victor J. Sostar, executive vice president, Regions Affordable Housing; Norma Drummond, acting commissioner, Westchester County Department of Planning; George Latimer, Westchester County executive; and Robert Greenstein, supervisor, Town of New Castle.

Specifics

Residents have access to landscaped courtyards, an outdoor play area, two fitness rooms, a club room, walking trails, the on-site retail, potential job opportunities of the on-site office tenants and a shuttle bus to the Metro-North train station in downtown Chappaqua. The development is also served by a Westchester County Bee-line bus stop, project spokesmen said.

Project officials said that Chappaqua Crossing was designed with sustainable features, including Energy Star appliances, lighting and heating systems, and water conservation features, including low flow toilets, shower heads and faucets.

When complete, the 700,000-square foot campus will offer a Whole Foods Market, a Lifetime Fitness gym, additional shops and restaurants, and more than 500,000-square feet of office space, officials added.

The Beginning

The decision to convert the original portion of the Reader's Digest's 680,000-square-foot headquarters from office to housing was reached after discussions between Chappaqua Crossing Owner Felix Charney, Balter and the Town of New Castle, project spokesmen said.

"A lot of different ideas had been considered for the original section of the building," said Charney, who is President of Summit Development, which is based in Southport, Conn. "We always had included affordable housing in the plans we had for the overall property, and we had received approval to building new housing on the site. Then, in talking with Bill, who was relocating the Wilder Balter headquarters to Chappaqua Crossing, the idea emerged of converting the Cupola Building to housing. And Bill has done a terrific job accomplishing that goal."

HCR has provided about \$10 million in financing for the project in the form of tax exempt bonds and subsidy. HCR's Federal and State Low Income Tax Credit Allocation will generate \$5.4 million in equity. Other funding sources include \$4.1 million from Westchester County, officials said.

Wilder Balter Partners is a leading developer of award-winning, new construction homes in the New York metropolitan area. Since 1975, Wilder Balter Partners has built affordable residential communities and luxury homes in Westchester, Suffolk and Fairfield County (Conn.) and the Hudson Valley, company officials said.

Sen. Terrence Murphy (R-40 SD) said: "Affordable housing is a highly valued and critically needed commodity in Westchester County. With its modern amenities, and features such as nearby restaurants, a theater, walking trails and convenient transportation, Chappaqua Crossing will provide hard-working families and seniors with a sense of community."

Assemblyman David Buchwald (D-93 AD) added: "Redeveloping the iconic Readers Digest building as homes for families is a terrific example of how we can build on the past while finding solutions to community needs. Chappaqua Crossing's affordable housing is an especially valuable component of this mixed-use development."

"This development is a perfect example of a community finding a creative way to breathe new life into an old corporate property," said Westchester County Executive George Latimer. "By incorporating a unique mix of affordable, workforce and market-rate housing, this complex becomes desirable to all different kinds of families."

Added Robert J. Greenstein, supervisor of the Town of New Castle: "The iconic cupola building at Chappaqua Crossing now represents how affordable housing should be - integrated with market-rate units and workforce housing in a beautiful and vibrant location. This is affordable housing we can be proud of! This is housing we can be proud of!"

Homeownership Is the Primary Driver of U.S. Household Wealth, Industry Analysis Stresses

WASHINGTON, D.C.

As the nation's home builders celebrated National Homeownership Month in June, new research showed that a household's primary residence is its largest asset and continues to provide an important building block for long-term financial security.

The latest edition of the Survey of Consumer Finances, published by the Board of Governors of the Federal Reserve System, reported that the primary residence accounted for about one-quarter of all assets held by households in 2016, ahead of other financial assets, business interests and retirement accounts. An analysis of the data was released on Jun. 1 by The National Association of Home Builders (NAHB).

"Homeownership is a primary source of net worth for many Americans, and is an important step in accumulating personal financial assets over the long term," said Randy Noel, NAHB chairman and a custom home builder from LaPlace, La.

Building equity and accruing wealth when the value of your home appreciates are among the longer-term financial benefits of homeownership. Americans had a record-high \$14.4 trillion of equity in their homes in the fourth quarter of 2017, the report said.

The national homeownership rate of 64.2 percent shows signs of sustained growth after bottoming out to a cycle low of 62.9 percent in the second quarter of 2016. Yet, this number is still down from the peak of 69.2 percent in 2004 and remains below the 25-year average rate of 66.3 percent, the report added.

"We must continue to address the obstacles that remain for many potential home buyers, including factors that increase the

cost to build new homes. Skyrocketing costs for lumber is the number one challenge for builders right now," Noel said.

Since January of 2017, rising lumber costs have increased the price of an average single-family home by nearly \$9,000 and the market value of an average new multifamily housing unit by over \$3,000, the report said. While there are many reasons for increasing lumber costs, the primary factor is the 20 percent effective

"We must continue to address the obstacles that remain for many potential home buyers, including factors that increase the cost to build new homes. Skyrocketing costs for lumber is the number one challenge for builders right now."

*— Randy Noel, Chairman,
National Association of Home Builders (NAHB)*

tariff rate placed on Canadian softwood lumber, the study added.

NAHB has been fighting back against the rising prices by urging President Trump to resume talks with Canada to find a long-term solution to this trade dispute, association officials said.

"These tariffs are making housing less affordable for American families," Noel said. "NAHB will continue working on all fronts to find solutions that will ensure a lasting and stable supply of lumber imports into the U.S. at a competitive price."

The Umbrella Liability Policy - What It Is and What It Is Not, Continued from p. 2

Certain types of policies, such as Employment Practices Liability or Environmental Pollution Liability policies cannot usually be scheduled onto an Umbrella policy, so your business can only be protected from claims related to those policies if it maintains those policies, and then only for the dollar amount of the limit of those policies (since the Umbrella will not apply.)

An Umbrella policy does not pay for claims of damage (e.g., due to fire) to your property, such as your building or inventory. You must have Property policy of sufficient limits for these claims. However, if you are legally liable for damage to someone else's property, the Umbrella policy will respond, after the General Liability policy has paid its full limit.

Umbrella Liability policies (and especially Excess Liability policies) are subject to their own conditions and exclusions, which may vary from the underlying policies. For instance, an apartment building General Liability policy may cover a lead paint sickness lawsuit, and a landscaping contractor's policy may cover a pesticide sickness lawsuit, but an Umbrella policy may exclude these claims, even if the General Liability policy is scheduled on the Umbrella policy.

All businesses should consider an Umbrella (Excess) Liability policy, but it's important to understand what the Umbrella policy is, and what it is not. It's also important to evaluate what other liability policies your business may need (Employment Practices Liability; Environmental Pollution Liability; Directors & Officers Liability; Cyber/Data-Breach Liability; Professional Liability; etc.).

Contact your insurance broker, or Levitt-Fuirst Associates at (914) 457-4200 for more information on Umbrella (Excess) Liability policies.

Editor's Note: Levitt-Fuirst Associates is the Insurance Manager for The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region. The firm is based in Tarrytown.