

## NATIONAL AWARD TO RISK MANAGEMENT SERVICES DIRECTOR



On April 20<sup>th</sup> the designation of Public Sector Risk Manager of the Year was awarded to MMA's own Joan Conner, Director of Risk Management Services. This prestigious award is one of only two such awards, one for the private sector and one for the public sector, made for 2003 by Business Insurance Magazine and the Risk and Insurance Management Society at the annual RIMS Conference in San Diego, California.

The criteria for this award are rigorous and include such requirements as establishing and implementing effective risk management programs, solving major organizational problems, demonstrating innovative application of diverse risk management and insurance tools, creative structuring of insurance programs, effective collaboration within the organization, performing management functions skillfully within the organization and risk management department, achieving balance between most effective program and optimum cost over the long term, developing of technical expertise in the broad categories included within risk management, fostering advancement of the risk management profession, among others. MMA's insurance broker, C.J. McCarthy Insurance Agency, and Christopher Lockwood, Executive Director of MMA, nominated Joan for this award.

Joan's immediate response on being notified of her receipt of this honor was to state that this award is recognition of the collective achievement of the staff of MMA's Risk Management Services Department. The Editor would like to say, as a member of that staff, that it is the leadership of Joan Conner that enables her staff to perform successfully. Please join us in congratulating Joan for this acknowledgment of excellence in her dedicated service to MMA and the members of all of the Risk Management Services programs.

## VACANT BUILDINGS

Commercial insurance companies and the MMA Property & Casualty Pool treat vacant buildings differently than buildings that are occupied. If you think about that for a moment you can understand why. A vacant building is more likely than an occupied one to be a target of vandalism.



Since vacant buildings are less likely to be monitored on a daily basis a sprinkler system malfunction or problem in the heating system may be undetected for some time resulting in damage to the building. Theft or attempted theft of fixtures or other items resulting in damage to the building is more common in a vacant building. Also, the liability exposure for a vacant building is increased.

Typically, insurance companies require that they be notified at once when a building becomes vacant and thereafter restrict coverage. The Pool requires that a member notify Underwriting within 60 days after a building becomes vacant and also restricts coverage. In addition, like most commercial insurance companies, the Pool does not cover losses that occur to buildings that have not been added to the property schedule prior to the loss and for which the member has not provided written notice that the building is vacant prior to the loss. A commercial insurance company or the MMA Pool must evaluate both the increased likelihood of property damage and the increased liability exposure in determining if coverage should continue to be provided for each vacant building. The structural condition of the building, the member's plan for the building's maintenance and oversight, as well as the ultimate plan for selling or re-occupation of the building are all factors to be considered.

In short, vacant buildings present increased property and liability exposures and must be reported to your insurance company or the MMA Pool as soon as the owner knows that the vacancy will occur.



## WHAT DO YOU MEAN YOU FORGOT TO ADD IT TO THE PROPERTY SCHEDULE?!?!?!?

Nobody likes having to inform their governing board that a recent loss was not covered because staff neglected to advise the insurer that the property was supposed to be insured. Are all your entity's buildings, vehicles, and equipment scheduled for property coverage? The deadline for the Property and Casualty Pool renewal applications was March 31, 2004, but the Pool always welcomes corrections to the schedules. It's not too late to distribute copies of your property schedules to employees, municipal officers, directors, and trustees in an attempt to identify property that has been inadvertently omitted. (Pool property schedules were sent with the renewal applications.)

Your building schedule should identify every structure the municipality wishes to insure as well as the structure's replacement cost value. Don't forget to include storage sheds, fences, sports field lighting, kiosks, gazebos, basketball hoops, pedestrian street lights, recycling facility attendant stations, traffic lights, boat docks, wharfs, welcome signs, memorials, and communication towers, if you want this kind of property to be covered.

Does your building schedule include structures that your public entity does not own? If you do not own the building and do not have a written lease agreement that

requires you to insure the building, contact your insurer immediately. The fact that you do not have an insurable interest in the property may render the coverage for that building ineffective. It is not uncommon for a municipality to be uncertain about the ownership of a building used by the incorporated fire company, library, or historical society. Make sure you have written documentation that substantiates ownership or that provides evidence that your entity has a contractual responsibility to insure the premises.

Review your vehicle schedule to make sure that recent acquisitions have been added and that you are not carrying coverage on vehicles that have been removed from your inventory. Double check the year and vin numbers that appear on the schedule to reduce confusion or delay in the event of a claim.

Take particular note of your municipality's mobile equipment schedule because this is an area that is often overlooked. Mobile Equipment (a/k/a - Contractor's Equipment, Portable Equipment or Inland Marine) should include all items that are likely to be used at more than one location (except for registered vehicles). List on the Mobile Equipment schedule all vehicles that are not registered for road use such as backhoes, graders, rollers, and loaders plus equipment such as tools, lawn mowers, compressors, roll-off containers, and firearms. Seasonally used public works equipment such as detachable snowplows and sand hoppers should also be identified. Be sure to check your mobile equipment such as SCBA, radios, turnout gear, extrication equipment, chain saws, portable generators or pumps, boats, motors, trailers, defibrillators, Cascade systems, and thermal imaging cameras.



*Remember, we can't cover it if we don't know you own it.*

If you have any questions about your Property and Casualty Pool coverage or need to update your schedules, call Risk Management Services Underwriting Department at 1-800-590-5583 or 626-5583.

### *The Municipal Risk Manager*

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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**CAMDEN**



**FARMINGTON**



**LAMOINE**



**ASHLAND**



**KENNEBUNK**



**MASARDIS**



**BAR HARBOR**



**FORT KENT**



**STANDISH**



**FAIRFIELD**



**MMA  
TRAVELING ACROSS  
MAINE**

**UNEMPLOYMENT  
COMPENSATION FUND  
DIVIDEND DELIVERIES**

## WELCOME NEW MEMBERS!!!

### **Property & Casualty Pool**

Town of Minot  
Auburn Residential Dev. Corp.  
Belfast Water District

### **Workers' Compensation Fund**

Limestone Water & Sewer District  
Town of Minot  
Town of Newfield  
Newfield Rescue

## **Constables**



Many municipalities designate Constables as a matter of course, along with various other annual board and committee appointments. Authorizing an individual to be a Constable, however, has risk management implications that should be considered by the appointing authority.

Constables have the powers and duties of special police officers (30-A M.R.S.A. s 2672) unless otherwise limited in the certificate of appointment. If the municipal officers do not want a constable to exercise law enforcement powers such as carrying or using a weapon or making arrests, then the officers must expressly prohibit those activities in the certificate of appointment. Constables who have not been trained at the Criminal Justice Academy as provided in 25 M.R.S.A. s 2801 should not be involved in criminal law enforcement (i.e. they should not be authorized to carry and use a weapon or make arrests). If an untrained constable is granted such authority, the town runs a serious risk of liability for false arrest, assault, or violation of civil rights. Moreover, failing to use properly trained officers for law enforcement activities may trigger federal civil rights liability that may fall outside the protections of the Maine Tort Claims Act.

Even if powers have been limited, the Constable's post is a law enforcement position and the municipality should carry Law Enforcement Liability coverage for each appointment. The MMA Property and Casualty Pool coverage includes Law Enforcement Liability only when the exposure is identified through the municipality's original or renewal Pool application. To inquire whether your municipality's Pool coverage includes Law Enforcement Liability for an appointed Constable, please contact Risk Management Services at 1-800-590-5583. (A Pool Member Coverage Certificate indicating that Law Enforcement Liability is included is not proof that the coverage extends to constable positions.)

Constables are often appointed for the sole purpose of posting the Town Meeting Warrant. Title 30-A M.R.S.A s 2523 states that the warrant for calling any town meeting "must be directed to a town constable, or to any resident by name, ordering that person to notify all voters...". Municipalities desiring to eliminate the exposure and the expense of law enforcement liability coverage may want to discontinue the practice of appointing constables to post warrants.

For additional information about Constables, see the Public Safety Officials/ Department sections of the Municipal Officers Manual and Fundamentals of the Town Meeting or Town Election Warrant - Requirements of Warrant in the MMA Town Meetings & Elections Manual.

### **Budgeting for Deductibles**

Deductibles are a risk management tool that helps to lower coverage costs. However, when a public entity does not appropriate money for deductibles, the expense of paying the first \$1,000, \$2,500, or even \$10,000 of a claim may be a significant burden on the budget. Some organizations maintain deductible reserve accounts. Others include a deductible line item in the insurance or administration account. Call your auditor to discuss the mechanism that will work best for your entity.