

## **Understanding And Developing A Risk Management Policy For Condominium Projects**

I am currently watching a 10-part Discovery Channel series called “The Deadliest Catch”. It chronicles the fishermen involved in the Alaskan King Crab trade out of Alaska, where each year 250 boats converge on Dutch Harbor, awaiting the official King Crab harvesting season. The injury rate is a staggering 100%, with at least one fisherman per year guaranteed to die. The reward is up to \$140,000 for five days of work. Although I hesitate to make an analogy between “The Deadliest Catch” and Architects venturing into the risky waters of condominium projects, I must admit that, during the first episode, the analogy crossed my mind. Maybe I work too much, or maybe it is the fact that every single day I receive telephone calls from design professionals asking me to assist them in navigating the risks of condominium projects. The rewards can be great, but the risks are extremely high, often outweighing the potential rewards.

The purpose of this article is to address the risks (and remind some of you who may have forgotten the risks); provide you with an understanding of the types of things you need to be aware of before entering into such projects, including whether you are actually “covered” by Owner Controlled Insurance Program policies (“OCIP,” also commonly known as “Wrap-up” policies and hereinafter referred to as “Wrap” policies), and assist you in developing your own Risk Management Policy to be followed when considering condominium projects. I promise not to take the fishing analogy any further (after all, I am just a hook-and-worm gal myself, but infinitely fascinated by the Discovery Channel.)

### **The Risks**

Condominium developments are among the riskiest areas of practice for design professionals, yet the amount of condominium projects currently in various stages of development across the country has dramatically increased in the past 1 ½ years. What has changed to make reputable Architects want to consider taking on condominium projects? Have Homeowner’s Associations stopped suing? Have Developers misled you into believing that their Wrap policy covers your professional errors and omissions, thus creating a false sense of security? Has the civil justice system finally agreed that Architects should be held in a special light – one where their exercise of judgment is respected, the uniqueness of their design services acknowledged, and the Architect who practices in a reasonable and prudent manner is protected? Or are the Architectural fees for such projects simply too good to pass up?

Unfortunately, very little has changed with respect to how the legal and insurance industries view condominium projects. A condominium project is still ten times more likely to give rise to a claim than a commercial project. One 2004 statistic indicated that the loss ratios on condominium projects is anywhere from 228% to more than 900%, depending on the discipline. Homeowners still have expectations of high quality and low maintenance requirements. Problems occurring in condominiums usually occur in multiples – if a window is improperly detailed and constructed for one unit, it is likely improperly detailed and constructed for every unit. If a roof drainage system is