

association, just to list a few. Clearly, the insurance carriers now dictate the rules of the game for Developers when they are seeking Wrap policies and hopefully the result will be an improved quality of construction, thus reducing the likelihood of litigation.

### **What Is A Project Specific Policy, And Is It Available For Condominium Projects?**

The Project Specific Policy (“Project Policy”) is a Professional Liability policy and is traditionally written for one project, covers the entire design team (usually excludes soils and geotechnical engineers), has one set of limits dedicated to the one project and has a pre-determined or pre-negotiated length of time. *These policies are a wonderful solution to a myriad of problems, but unfortunately, they are very expensive for condominium projects and project owners oftentimes will not pay the price.* With that said, there are policies available, and it is worth discussing the options with your professional liability insurance broker, if at least to be able to direct the Developer to that broker to explore the options. For those current condominium projects with project policies in play (very few) professional liability insurance brokers are seeing terms such as three years design/construct plus an additional 3-5 years of discovery. These insurance brokers would like to see 10 years of discovery, but it is difficult to find. Remember, this is a “claims made” type policy, which means a policy must be in force or the discovery period must be valid at the time the claim is presented, or there is no coverage.

These policies are usually funded by the project owner, but the prime architect is the named insured and is responsible for the deductible (which is pre-negotiated and must be included in contracts with subconsultants) and the premium as well as any audit amounts that may be due.

The main benefit of the project specific policy is to insulate the design professional's practice policies from the claims that we know will more than likely result from providing services on condominium projects. Some design professionals may have condominium exclusions on their practice policies which would preclude them from even working on condominium projects. Thus, a Project policy would be a necessity if the Developer was to have that particular Architect involved in the project.

Again, it is very important to discuss the state of your insurance with your professional liability broker. You must determine not only whether your own practice policy prevents you from providing services for condominium projects, has a sub-limit of liability coverage, or has a “cap” on the percentage of fees which you can generate from condominium projects. Further, you should determine the current availability and reasonableness of project policies for condominium projects. Unfortunately, we are finding that insurers are very reluctant to offer project policy coverage on a condominium project, but the inquiry should nevertheless be made.