

The LGIT News

Addressing the Needs of LGIT Members

Winter 2014 – 2015

Tim's Corner

Grants Made Easier

We have recently made it easier for members to apply for training grants through the LGIT website. Members can now apply for training grants and law enforcement body camera grants on-line in a "fillable" format. In our continuing effort to improve member services, we have developed this new and simpler application format to enable members to quickly apply for these grants. All of the required information can be submitted electronically through the link at www.lgit.org. We encourage members to use this format, as it is easier for the member and enables

LGIT to "track" applications. It is our hope that the streamlined application process will encourage more members to take advantage of the grant program.

Beginning July 1st, the LGIT Board allocated \$100,000 for training grants and up to \$50,000 for body camera grants. Since there is still funding available, we encourage you to apply. This is an inexpensive way to improve the quality of life in your communities through improved training and policing.

For questions concerning LGIT Grant Programs please contact Larry Bohlen, Field Services Senior Manager at 800-673-8231 or lbohlen@lgit.org

Tim Ailsworth
Executive Director, LGIT



Betterton Mayor Donald Sutton, right, accepts a check for \$1,890 from Tim Ailsworth, Executive Director of Local Government Insurance Trust, during the town council meeting Tuesday, Nov. 25.

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From the Boardroom

The Board of Trustees met on October 29 and December 5 and took the following actions:

- The Board of Trustees approved the Local Government Insurance Trust's Comprehensive Annual Financial Report (CAFR) for June 30, 2014.
- The Board of Trustees approved the Capital Target Study as recommended by Mr. Glicksman, the Trust Actuary, to return 1.738 million dollars in credits per year over the next 3 years in the Primary Liability Pool, to continue to return \$250,000 per year in the Property Pool in the form of credits (this amount is currently used to subsidize the equipment breakdown coverage), and to continue to provide one million dollars of excess liability coverage to all members of the Primary Liability Pool (which equates to roughly \$400,000) at no charge.



Did you miss the 1st opportunity to receive FREE Cyber Insurance??? It's Open Enrollment until January 31, 2015.

We are offering it again for members who didn't enroll previously. **If you are already enrolled, you do not need to sign up again for FY15.**

At no cost to our Members, LGIT is pleased to offer the new value-added Cyber Insurance Program to all Members.

To qualify, LGIT Members must complete the five-question online application at <https://my.rpsins.com/lgitcyber> by January 15 for an effective date of January 1, 2015 or by January 31 for an effective date of February 1, 2015. (Please disregard June 15th, 2014 qualify date on the survey).

In addition to the coverage overview at the above link, click on the links below to find more information on Cyber Insurance.

- [RPS Cyber Flyer](#)
- [XL Insurance eRisk Hub](#)

Please do not hesitate to contact Scott Soderstrom, Underwriting Director, at scott@lgit.org or 443-561-1700, with any questions.

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Winter Safety Tips: Avoiding Slips, Trips and Falls

Slips and falls are a major cause of injury at home and in business. According to the National Safety Council, 25,000 slip and fall accidents occur daily in the United States; more than 16,000 people die each year as a result of falls; and one in five emergency room visits is the result of a fall. The National Safety Council estimated that slips, trips and falls account for about 15 percent to 20 percent of all workers' compensation costs. According to the Occupational Safety and Health Administration, slips, trips and fall accidents are second only to motor vehicles as a cause of occupational fatalities. The risk of injury is especially a concern to businesses with considerable foot traffic. Employees and other third parties on your premises – visitors, customers, vendors, contractors and subcontractors – could be at risk of a slip, trip and fall accident and injury particularly where unsafe conditions exist. Unsafe conditions are accidents waiting to happen. Injuries caused by slips, trips and falls are a major burden to employers, especially during the winter months. Wintertime snow and ice bring an increased risk of slips and falls due to slippery sidewalks, parking lots and work areas.

Here are a few tips you may wish to share with your employees.

Parking Lots and Sidewalks

Make sure walking paths are properly illuminated. Mark trouble spots such as snow banks and slippery curbs with caution tape or orange cones. Remember to adequately salt walkways. Be sure to remove re-melted snow and ice after the application of salt/snow melt.

Entrances and Exits

Ask all of your employees to enter and exit from one or two doors. That will make it easier to ensure snow is removed, ice doesn't build up and conditions are less hazardous. Mop all entrances and exits regularly to prevent water accumulation. Place wet floor signage at entry and exit points to alert both employees and the public and reduce the potential for slips and falls.



Communicating with Employees

Talk to employees about things they can do to avoid slips and falls this winter.

Tips include:

Avoid wearing high heels outside. Flat shoes with slip resistant soles or boots are best.

When walking across ice or snow, be sure to take short, flat steps. Walk. Don't run. Slowing down will decrease the chances of a slip and fall.

When entering a building, remember to clean your footwear thoroughly on the floor mats or carpet. Mats should also be non-skid and slip resistant.

Use walkways that have been salted or shoveled.

Discourage taking shortcuts over snow piles and in areas where snow and ice removal is not feasible.

Spread salt or sand when you see icy spots. You can help reduce the number of falls by taking action.

Be aware of black ice—a thin, nearly invisible coating of ice caused when temperatures rise above freezing and quickly drop below freezing.

LGIT's 27th Annual Meeting Recap

The 27th Annual Meeting was held on Thursday, October 30th, at the Navy-Marine Stadium in Annapolis. A record number of LGIT members attended, making this meeting one of our most successful.



The morning Academy of Excellence class featured Kevin Karpinski's presentation of "Employment Issues." More than 65 people attended.



The business meeting was highlighted by committee reports from the Underwriting Committee (presented by Board Chairman Sonny Bloxom), the Finance/Administration Committee (presented by committee chair David Deutsch), Risk Management Committee (presented by committee vice chair Juan Torres), and Claims Committee (presented by committee chair Ernest Crofoot) and LGIT Executive Director Tim Ailsworth presented the Health Cooperative report.

Member award presentations recognized the outstanding actions of LGIT's Members throughout the year. The Claims Award was awarded to the Town of Mount Airy; the Risk Management Award to Wicomico County; and the Training Award to Cecil County.



Claims Committee Chairman & Board Member Ernie Crofoot and LGIT Chairman Sonny Bloxom present the Claims Award to Holly Macaluso from the Town of Mount Airy.



Risk Management Vice Chairman Juan Torres and LGIT Chairman Sonny Bloxom present the Risk Management Award to Wicomico Co. Risk Manager David Inkrote.



Risk Management Committee Vice Chairman Juan Torres presents the Training Award to Cecil County Executive & LGIT Board Member Tari Moore and Cecil County Risk Manager Karen Nusic.

This year, two employees from the City of Bowie, Boathouse Supervisor Robert Feazell and Park Ranger Brittany Hollins, received the Lifesaver Award for their quick action in saving several citizens from drowning at Allen Pond.



LGIT Chairman Sonny Bloxom and Risk Management Committee Vice Chairman Juan Torres with Bowie's Lawrence Pierce, Director of Community Services and David Deutsch Bowie City Manager and LGIT Board Member presented the LGIT Lifesaver Award to Bowie Employees Robert Feazell & Brittany Hollins.



LGIT Board Chairman Sonny Bloxom presents New Carrollton's Mayor Andy Hanco with the City's 20th Anniversary Award.



LGIT Board Chairman Sonny Bloxom presents 25th Anniversary Awards to Lynne Levin, Risk Management Administrator for Howard County and Martha Sparks, Circuit Rider/Town Manager for Town of Goldsboro and Rhonda Pindell-Charles, Alderwoman City of Annapolis..

Our guest speaker was J. Russell Sharpe, instructor at the Maryland Police and Corrections Training Commissions. He provided a powerful and thought provoking presentation on how to protect yourself and your workplace in the event of an active shooter situation. Afterward, many members rated Mr. Sharpe's presentation as one of the best ever at a LGIT Annual Meeting.

After enjoying a delicious crab cake luncheon buffet, the event concluded with a meeting of Health Cooperative members and the afternoon Academy for Excellence class, Basics of Risk Management, presented by our own Dick Furst and Larry Bohlen.



Rental of Public Recreational Facilities: What are the Consequences for Local Governments?

Introduction

A recent LGIT case involved the City of Hagerstown's municipal pool, which is operated as part of the city's parks program. At issue was whether the city's rental of its municipal pool for private events caused it to lose its governmental immunity, thereby exposing it to liability for a personal injury sustained during a private event. During a private party at the pool, Robert Reed, a guest, was injured by an allegedly defective ladder in the pool. He sued for damages and the City asserted the defense of governmental immunity. Reed countered, arguing that a local government's rental of a municipal pool for a private event is not a "governmental" function. Instead, he argued, such activity is proprietary, or corporate in nature, and not governmental. Consequently, he urged that the city not be allowed to shield itself with governmental immunity. Who prevailed and why?

Governmental Immunity: An Overview

Generally, local governments are entitled to governmental immunity (from tort liability) if they are acting in a "governmental" as opposed to a "private" or "proprietary" capacity. Historically, courts have defined a governmental function as one that is sanctioned by legislative authority, is solely for the public benefit, and results in no profit to the government. These functions are seen as ones that benefit public health and safety and promote the welfare of the whole public. So, then, what is the definition of a "private" or "proprietary" function to which governmental immunity does not apply? The answer is there is no single definition. Instead, courts look to see if the government activity under review was undertaken primarily to generate revenue for the jurisdiction. So, if the local government is operating a certain activity as a profit-making business, it is unlikely that it can hide behind the defense of immunity.

Charging Fees, Profit-Making, and Governmental Immunity: Can They Co-Exist?

Many local governments charge fees for certain activities. Charging fees alone does not necessarily convert a governmental function into a private one. The function only becomes private, or proprietary, if the income derived from the charges is in an amount substantially in excess of the government's operation costs. In other words, is the activity engaged in by the government really little more than a "moneymaking proposition"? But is "moneymaking" alone enough to cause the loss of governmental immunity? A case from 1992, *Town of Brunswick v. Hyatt*, which also concerned a municipal pool, seems to suggest not. In that case, the local government did realize a modest profit from the operation of its public swimming pool. Regardless, the Court of Special Appeals held that the fact of some profit making alone, did not result in the loss of governmental immunity. Instead, the court focused on the purpose of the activity---and

whether it tended to benefit the public as a whole---as the determining factor. Still, and as a word of caution, the greater the difference between income generated and operating expenses, the more likely a court will be to find that governmental immunity does not apply.

The Fees Related to the City of Hagerstown's Municipal Pool

The City of Hagerstown allows people to rent its municipal pool for private parties during times when the pool is not open to the public. One who wishes to rent the pool for a private party must submit an application, sign an agreement, and pay a fee based on the size of the event. To reserve the main pool for a private event, Hagerstown, at the time of the event in this case, charged (i) \$80 per hour for 1-50 guests; (90) per hour for 51-75 guests; and (iii) \$125 per hour for 76-100 guests. The money collected for private events has never covered the pool's operating expenses, and no profit has ever been made. The city's parks are funded by the taxpayers.

The Outcome

The circuit court ruled in the city's favor, finding that the operation of the municipal pool was a governmental activity, and that the governmental nature of the activity was not lost by charging rental fees for private, after-hour events. On appeal, the Court of Special Appeals affirmed, stating:

Managing recreational facilities for the public benefit often involves reserving a facility for the exclusive use of a private party. Picnic pavilions and camp sites are typically set aside for those who wish to reserve them. This sort of routine scheduling falls within the concept of 'operation and management' of a recreational facility.

In other words, what the city did here was "nothing more than a commonsense (and commonplace) practice to defray operating expenses in a period of fiscal restraint."

Conclusion

By renting a municipal pool for private functions, local governments can provide an opportunity for individuals to host or attend pool parties even though they could not afford membership at a private pool, country club, or similar facility. Akin to a family renting a park pavilion for a picnic, a community group reserving a meeting in a public library for a book club, or youth athletic teams reserving playing fields in a public park, local governments can provide an unquestionable social benefit and promote the welfare of the whole when they provide a venue wherein, in the words of the court, "people may gather together to swim safely." In sum, the rental of certain public recreational facilities is a way that does not adversely effect the public as a whole, is just on way for local governments to better serve their communities.

John F. Breads, Jr.
Director, Legal Services, LGIT

Getting Your Airports Insured

As we all know from waiting in long security lines, airport risks have increased drastically since the 9/11 terrorist attacks. Airport operators, including local airport operators, know that airport risks have increased even more recently because of a number of factors.

Last September, for example, a nurse infected with Ebola virus disease was flown into the Frederick Municipal Airport via a charter plane. The airport had to make sure that all required health safety measures were in place. This included decontamination efforts. Further, the airport faced potential liability from enforcing quarantine/isolation measures.

Last March, a plane was forced to land without its landing gear at the Salisbury Ocean City-Wicomico Regional Airport.

Last October, there was an in-flight helicopter and airplane collision that resulted in multiple deaths at the Frederick Municipal Airport.

Then, in December, there was the terrible loss of life when a small private jet crashed into a home, killing a mother and two young children. The pilot was trying to land at the Montgomery County Airpark in Gaithersburg.

Finally, airports witnessed the increase of drone activity in restricted airspace, creating risk to passengers and crew, not to mention people on the ground. The airport drone risk is expected to increase, and 2015 could very well be the “Year of the Drones,” especially in light of lax governmental regulation.

So how does LGIT cover airports? The LGIT Property Pool will cover airport property, including towers, hangars and terminals. Additionally, while aircraft are excluded, our members’ drones are covered up to \$2,500 without a deductible.

The LGIT Liability Pool covers our members’ airports as a landlord only. It does not cover airport operations. Therefore, securing an airport liability insurance package that includes Commercial General Liability, Hangar Keepers Liability, Airport Public Officials Liability and Employment Practices Liability, is vital. Other insurance considerations include Terrorism, Pollution Liability (especially for underground & above storage tanks) and Air Shows & Events Liability.



Additionally, we recommend requiring a certificate of insurance from airport companies managing your airports, and from all other fixed based operators (FBOs). More importantly, you should require management companies and FBOs to name your local government as an Additional Insured with minimum limits of \$1,000,000 per occurrence. All FBO contracts

should include both requirements as well as language that the FBOs will indemnify, hold harmless and defend the local government for any and all claims, losses, costs, expenses, defense costs, etc. that arise from their operations. All of these recommendations also apply to those requesting use of your airport for air shows and other events.

Please feel free to contact us should you need a commercial airport application.

Scott Soderstrom CPCU, ARMP
Director, Underwriting Services, LGIT

From the Employment Law Hotline (800.845.8055)

The Hotline is a component of the HR Compliance Portal and is a service available to Liability Program members. It provides up to 30 minutes of free legal advice per employment issue. This member service is provided by LGIT, with the professional assistance of Karpinski, Colaresi and Karp, P. A. We have selected for publication one recent inquiry of interest.

Question: Occasionally a local government puts on special events. These events often require employees from the Department of Public Works to work overtime. The employees object to having to do so, even though the local government pays time and half for the extra hours. Can the local government require the employees to work more than 40 hours a week?

Answer: YES. The local government can require employees to work more than the standard 40 hours per week. The Fair Labor Standards Act simply addresses when overtime must be paid. It does not prohibit an employer from requiring an employee to work more than 40 hours per week.

LGIT Calendar

February

EVOC - Emergency Vehicle Operations Course — Sykesville

February 9, 7:30 AM - February 10, 4:00 PM @ Driver Training Facility, 7310 Slacks Road

***For up-to-date calendar information, go to
www.lgit.org and click on Upcoming Events***

General Information — 800.673.8231 or 443.561.1700
Online Registration — <http://www.lgit.org>
FAX Registration — Attn: Michelle Yannone, 443.561.1701

Maryland Local Government Health Cooperative

Learn about a new alternative for health insurance coverage available only to Maryland local governments. Go to www.lgit.org and click Health Coop on the home page.

Join the growing number of Maryland local governments that have discovered the best option for their health insurance needs.



Current Cooperative Members

- City of Aberdeen
- City of Brunswick
- Town of Chesapeake Beach
- Town of Chesapeake City
- Town of Chestertown
- City of College Park
- City of Cumberland
- City of Gaithersburg
- Town of Hampstead
- Kent County
- Kent County Library
- LGIT
- Maryland Municipal League
- Town of Middletown
- City of New Carrollton
- Town of Oakland
- Town of Port Deposit
- Town of Sykesville
- Town of Upper Marlboro
- City of Westminster

Key Program Advantages

- Choose your own plan design
- Costs will be the same every month
- Modified self-funding without the risk
- Opportunity to receive money back

More Information

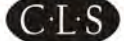
For more information or to get a quote, contact Michele Keplinger, Member Services Specialist, at 800.673.8231.

LGIT's 27th Annual Meeting

October 30, 2014 ~ Annapolis, Maryland

Thank You Sponsors

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