

LGIT NEWS

Spring 2011

Serving Maryland Local Governments Since 1987

Pursuing Our Mission

LGIT is owned by our members, and because we only insure Maryland local governments, we specialize in solving governmental insurance and risk management needs.

Our mission statement is **“to provide coverage and risk management services at stable and competitive rates through an organization that is owned and managed by its local government members.”** To accomplish our mission, the Trust is constantly looking for ways to reduce claims’ costs and to manage our cost of operation. We seek to control claims’ costs by offering “value added services,” such as the Training Grant Program, and the HR Compliance Portal. One component of the HR Compliance Portal is the Employment Law Hotline, a service that enables members to consult with an attorney at no charge prior to making an employment decision. The portal also provides electronic updates on federal employment issues.

Our excellent in-house legal staff, and our loss control staff also provide live training on a wide variety of topics. Additionally, we offer our members a safety video lending library and “on-demand” training, where members and their employees can be trained at their convenience.

We strive to manage costs by routinely evaluating our reinsurance contracts and by ensuring that we are performing our administrative functions in the most efficient manner possible. Just last year we saved 30% in our property reinsurance premium which we passed on to our members.

We also believe in hiring the best employees to serve you. Our dedicated staff of 32 is better trained than most commercial insurers. It includes six attorneys, a certified public accountant, a PhD in toxicology, two chartered property and casualty underwriters, two associates in risk management and several others with either post-baccalaureate training or other insurance industry designations. Last year, we reevaluated our staffing needs and determined that we could eliminate one internal administrative position and use the savings to hire a “member services associate” dedicated to serving our members. We also are going to introduce a newly designed member portal at our spring workshops. The portal will allow members to submit and monitor individual claims. It will also enable members to make changes to both real property and auto schedules.

Finally, I would be remiss if I failed to mention the Maryland Local Government Health Cooperative. The Cooperative, which is being marketed in conjunction with Benecon and Cigna Healthcare, provides a different model for providing health coverage to local government employees. Last year, LGIT saved approximately 20% on its July 1st, 2010 renewal by moving the organization’s health coverage to the Cooperative. We currently are “knocking on doors” across the state, and I hope you will give the Cooperative a chance.

On behalf of LGIT staff, I want to thank you for giving us the opportunity to provide you with the best service available.

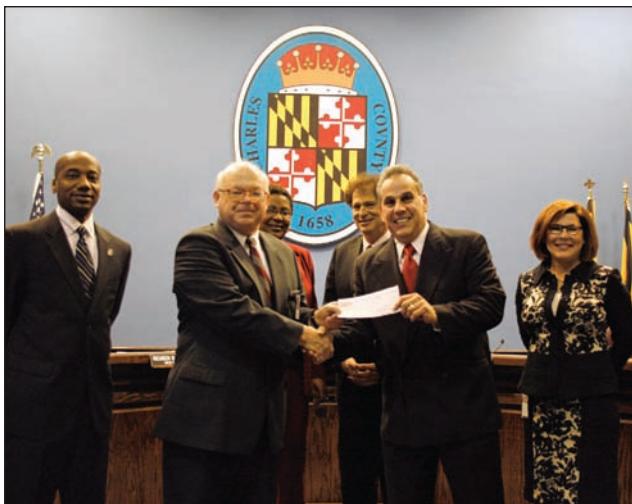
Tim Ailsworth
Executive Director, LGIT

Training Grant Presentation for Charles County

Tim Ailsworth presenting Charles County with a LGIT Training Grant Award in the amount of \$3,332 for the Charles County Sheriff’s Office. The grant paid for Recognition, Prevention, and Management of Excited Delirium and Sudden, In-Custody Deaths Instructor Course training. This course teaches instructors how to recognize the behavioral cues that may be exhibited by individuals suffering from delirium or those at risk of sudden death while in custody.

Back row left to right: Charles County Commissioners Reuben B. Collins, II, Debra M. Davis, Esq., Ken Robinson, and Candice Quinn Kelly.

Front row left to right: LGIT Executive Director Tim Ailsworth, and Charles County Commissioner Bobby Rucci.



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From the Boardroom

The Board of Trustees met on January 27, 2011, and took the following actions:

- Ratified the acceptance of Chevy Chase View as a new member of the Trust, effective November 10, 2010.
- Approved the recommendation of the Underwriting Committee to include non-owned or rented autos in the unscheduled autos section.

Honorable Mention

We want to acknowledge member comments about LGIT programs and staff.

"A change in insurance programs can always be difficult, and, in our case, after 30 years with the same insurance provider, we certainly had some apprehension moving our coverage to LGIT. LGIT, however, made the renewal a smooth process and has far exceeded our expectations with pro-active claims management, terrific loss control services and open and ongoing communication. We strongly believe that this partnership will result in improved loss outcomes and savings for the City."

**- Sheldon Altschuler,
City of Rockville, Risk Manager**



Sheldon has nearly 20 years experience in risk, insurance, safety and employment practice management. He has served as a consultant and senior manager for over 200 companies in a variety of industries and jurisdictions. Sheldon has been the Safety and Risk Manager for the City of Rockville since 2008 and in that capacity leads various internal task forces, including the City's Safety Committee, the FOP Drug Free Task Force, and the Hazardous Pipeline Safety Initiative.

LGIT NEWS is published quarterly by Local Government Insurance Trust, a not-for-profit organization that provides insurance coverage and risk management services at stable and competitive rates and is owned and managed by its local government members.

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Whose Cell Phone Is It, Anyway?

A Supreme Court ruling in June 2010 (*City of Ontario v. Quon*, No. 08-1332, Decided June 17, 2010), emphasized the importance of a clear workplace policy about the use of company mobile phones and computers. The court ruled unanimously that employers have the right to read text messages, including personal ones, sent by workers if they have reason to believe that workplace rules are being broken. Though the Court rejected a broad right of privacy for employees, it did say it would tread carefully in deciding how far an employer can go in the future. "Prudence counsels caution," Justice Anthony M. Kennedy wrote, arguing that the court should not use the case of a police officer who sends numerous text messages on company equipment to "establish far-reaching premises that define the existence, and extent, of privacy expectations" of workers. He continued: "Cell phone and text message communications are so pervasive that some persons may consider them to be essential means or necessary instruments for self-expression, even self identification. That might strengthen the case for an expectation of privacy. On the other hand, the ubiquity of those devices has made them generally affordable, so one could counter that employees who need cell phones or similar devices for personal matters can purchase and pay for their own."

The Supreme Court's ruling in *City of Ontario v. Quon* overturned an earlier decision by the Ninth Circuit Court of Appeals in a case involving a California police officer who claimed supervisors' search of his text messages violated his Fourth Amendment rights. The officer, Sgt. Jeff Quon, was using a city-issued pager to send sexually explicit messages. Quon sued the city, its police chief, and the police department in October 2004, contending that the pager search was unreasonable. The suit argued that when Quon and the other officers received their pagers, the city didn't have a text-message policy. The city did, however, have official policies about general computer, Internet, and e-mail usage, and the policies limited the use to official purposes. The city's contract with Arch Wireless (since bought by USA Mobility Wireless) allowed

each pager 25,000 characters per month. Police officers who went over the limit, of which Quon was one, thanks largely to the personal messages (400 of 456 messages were personal one month), could pay the extra usage charges to avoid being audited. Quon's department discovered the sexually explicit text messages to his then-wife and mistress when they conducted a review of pager use to see whether the 25,000 character limit was enough for official purposes.

In the case, Quon argued the messages were private, while the city countered that he knew the department's computer use policies, and in fact, that text messages sent on department pagers could be subject to public disclosure requests under the California Public Records Act. (It also said that Quon's paying the extra cost for his usage was an informal policy; not an official one.)

The Supreme Court ruled the search of his messages was justified because the city and the police department had "a legitimate interest in ensuring that employees were not being forced to pay out of their own pockets for work-related expenses, or on the other hand that the City was not paying for extensive personal communications."

The ruling continued: "That the search did reveal intimate details of Quon's life does not make it unreasonable, for under the circumstances a reasonable employer would not expect that such a review would intrude on such matters."

In light of the *Quon* case, local governments should ensure that they have mobile phone, computer, and other portable electronic device policies in place. The vast majority of employers believe employees should be allowed to send personal e-mail or texts from employer-provided equipment, as long as it isn't excessive and doesn't interfere with work. However, more than half of those same employers monitor employee email use, and about a quarter have fired workers for violating e-mail or text policies. Accordingly, in this age of rapid technological advancement, strong policies clearly identifying employee do's and don'ts are a necessity.

John F. Breads, Jr.
Director of Legal Services

Employment Law Hotline

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

Call Before
You Act!

800.845.8055

Question: Can an employee being investigated for on-the-job misconduct related to an email demand the identity of the person who brought the email to the employer's attention?

Answer: Unless the local government's personnel policies dictate otherwise, the identity of the person making the complaint should be disclosed IF and only IF the complainant's information is the only information upon which the investigation is based. Situations where an anonymous tip is not corroborated by other evidence will seldom lead to disciplinary action. If, however, the tip leads to the discovery of corroborating evidence, then the complainant's identity need not be disclosed.

Determining the Value of Historic Assets

A Case Study of the Maryland State House

By Laura McWeeney, JD

One of the pillars of sound risk management is to ensure the appropriate level of property coverage before a loss. Coverage, in turn, is determined by the value of the asset. But, how is valuation achieved for a historic property like the Maryland State House in Annapolis, the crown jewel of the State? Clearly, “replacement cost new” with annual appreciation makes no sense.

After raising this issue with our broker partner, we came to the sobering realization that the State House may not be adequately insured. After envisioning the prospect of aluminum siding on the dome for a night or two, the State utilized valuable loss control hours provided by our broker for a historic valuation as a basis for coverage. In the interim and for the duration of the evaluation period, we proactively bumped our values in anticipation of an increase. In the end, the final valuation had a minor impact on the State’s excess property premium and resulted in an enormous increase in our level of comfort that this asset will be protected and preserved in the event of a loss.

The valuation process also involved consultation with State stakeholders such as the State’s Department of General Services, Archives and Historical Trust. Not only were their catalogs, documents and resources helpful, but their involvement in this process ensured that they were invested in the process and confident of the evaluator’s conclusions. As a final benefit, the valuation report made proactive recommendations for the preservation of ornamental plaster, metal and woodwork through mold templates held in a secure off-site location for use in the event of a catastrophic loss. That feedback was returned to the stakeholders for follow up.

This journey was fascinating and I would like to share some information about the historic valuation process in the event that your public entity is considering valuation of your unique historic property.

The Maryland State House

The Maryland State House in Annapolis, Maryland is the oldest State House still in legislative use and the only State House to have ever served as the nation’s Capital. The State House was originally constructed between 1772 and 1779 and in September 1790, Thomas Jefferson spent an enjoyable three hours on the balustrade of the dome with James Madison.

The State House served as the United States Capital from November, 1783, through August, 1784, for the Continental Congress. During that time, George Washington came before Congress to resign his commission as Commander-in-Chief of the Continental Army and the Treaty of Paris was ratified marking the official end of the Revolutionary War.

The State House is a registered National Historic Landmark and was constructed in three distinct phases: the Old State House, its timber-frame Dome built on top of the State House from 1785 through 1795, and the Annex, which was built from 1902 through 1906, as an extension of the original structure. One of the wonders of the structure is the Dome, the largest frame dome in the United States whose hand hewn timbers are held together by wooden pegs reinforced by iron straps forged by an Annapolis ironmonger. The Dome is topped by a five foot tall acorn whose purpose is to provide

stability to an actual Ben Franklin lightning rod which anchors its center. Much to our delight, the Dome also sports its carpenters’ graffiti dated from 1800.

Today, the Maryland General Assembly convenes at the State House for three months annually and the leadership of the state: the governor, lieutenant governor, speaker of the House of Delegates and the president of the senate, continue to have offices in the Annex.

Landmark and Museum Quality Valuation Standards

Given the uniqueness of this asset, there is little precedent for valuation of a building of this historic character. The valuators started with the normal “like kind and quality” assessment considering dimension, materials, structure and mechanical systems. With the obvious recognition that contemporary materials and craftsmanship would not adequately value the asset, the valuators then applied two more stringent standards, the landmark quality valuation and the museum quality valuation, to the structure.

Landmark quality valuation represents the cost of rebuilding the same structure on the same site to the standards outlined in the The Secretary of the Interior’s Standards for the Treatment of Historic Properties. Costs for this valuation include archeological investigation, the preservation of remaining historic materials, features and spatial relationships. This valuation focuses on the accurate duplication of the appearance of the original structure and does not include the costs for structures that are hidden from view. An example of landmark quality restoration could include reproduction of decorative plaster with pre-molded glass fiber reinforced gypsum with a skim coat of plaster.

In addition to those costs and conditions outlined for the landmark quality valuation, the museum quality valuation adds costs for extensive archeological investigation, material testing, the exact duplication of materials that are hidden from view and the use of historically authentic building methods.

An example of museum quality reproduction could include replacement of the original Tiffany stained glass with stained glass matching the color, pattern, texture and opalescence fabricated by experts who are knowledgeable of the Louis Comfort Tiffany Studio material and methods.

The Valuation Process

With respect to the valuation process, cost data for “like kind and quality” reconstruction was first developed using industry services that compile data bases of recent costs for similar buildings located in similar areas. Then, cost data for the more stringent standards was researched by an architect whose specialty is historic structures. The architect reviewed the few published documents regarding historic restorations both in the United States and in Europe and also interviewed historic restoration professionals and Maryland state building historians. Additionally, the architect reviewed the costs for other national restoration projects.

After the significant building components of the State House were identified, investigated and valued, the valuators were able to establish ratios between “like kind and quality” values and the costs associated with the two higher standards of construction. Based upon precedent and research, valuators were able to estimate that landmark quality reconstruction might increase costs by more than 200 percent above normal cost and that museum quality restoration

might increase costs by an additional percentage above that.

Finally, the valuators considered the three sections of the building and based upon the level of construction, age and function, recommended the appropriate standard of valuation for each. For example, the Old Senate Chamber is clearly significant in terms of the nation's history. Since the state is currently reconstructing the Chamber to the appearance it had in 1783, when George Washington resigned his commission as commander-in-chief of the Continental Army, the valuators recommended museum quality valuation for the Old State House. Landmark valuation was recommended for the Annex, which is currently in legislative use. By necessity, the Dome was valued at landmark quality as the materials and craftsmanship required for building and raising the Dome according to museum quality standards, as monumental as they were in 1790, would be almost impossible today. For instance, "crooks" employed in the 1700s for the arched roof of the belfry may not be available at any cost. Costs for each of these sections were added to reach a final valuation that we referred to our broker and carriers, who worked with us to achieve the required coverage.

There is no question that a structure such as the Maryland State House has a historical significance beyond that which can be captured by "like kind and quality" valuation. After all, the State House is only one of 2,430 sites that have been officially designated as a National Historic Landmark. Following the historic valuation, the State can now anticipate that its crown jewel will be protected and preserved for the next 231 years. Our new mission: the Governor's mansion perhaps?

Laura McWeeney, Esq., is the Director of Insurance for the State of Maryland.

This article originally appeared in the October issue of Public Risk magazine, the member magazine of the Public Risk Management Association. For more information, visit www.primacentral.org.

Did you know...?

APWA Uniform Color Code

When underground utility lines are marked, the colors indicate the type of line. What does the color of each mark represent?

- Red - Electric power, cables, conduit and lighting cables
- Yellow - Gas, oil, steam, petroleum or gaseous materials
- Orange - Communications, alarm or signal lines, cables or conduits
- Blue - Potable water
- Purple - Reclaimed water, irrigation and slurry lines
- Green - Sewer and drain lines
- Pink - Temporary survey markings
- White - Proposed excavation



Rockville Rules

During an excavation project, City of Rockville Public Works and Washington Gas employees use large locate markers to record damage to a buried facility that was mis-marked by the locator. These visual markers provide graphic evidence of "Miss Utility" locate mistakes and can help successfully defend against "Miss Utility" claims. The markers are available through RhinoLocatorSupplies.com.

Training & Seminar Class Schedule

Spring 2011

March

Regional Sewer Back up Prevention and MISS Utility Loss Prevention – TBA

Certified Flagger Training - TBA

April

2012 Policy Year Regional Workshops

All workshops are 9:00 a.m. to 2:00 p.m.

Lunch provided at all workshops

April 05, 2011 – The Wellwood Club, Charlestown

April 07, 2011 – Cambridge Yacht Club, Cambridge

April 12, 2011 – LGIT, Hanover

April 21, 2011 – Frostburg University, Frostburg

Training & Seminar Class Registration

General Information — 800-673-8231 or 443-561-1700

Online Registration — www.lgit.org/training/schedule.htm

FAX registration forms to Attn: Michelle Yannone — 443-561-1701

Spring is Time for LGIT's Regional Policy Year Renewal Workshops

With spring around the corner, LGIT members need to be thinking about the upcoming renewal season. The LGIT Underwriting Department is currently updating and compiling important information concerning members' renewals, including beneficial changes to the scopes of coverage, updates to the renewal applications, and other information that members will need to help complete the renewal process quickly and accurately. Again this year, members will receive their renewal information on CD-ROM via regular mail, so be on the lookout for this important information.

We strongly encourage all members to take advantage of our annual Policy Year Renewal Workshops, which focus on changes to the scopes of coverage, new property and liability coverages, renewal applications and rates.

Most importantly, members attending this year's workshops will learn about LGIT's new 360 Integrated Systems Program, including a tutorial on this newly designed member portal interface. This portal will enable LGIT members to revise schedules, submit claims and file renewals online.

The workshops are offered regionally throughout April on the following schedule:

- April 05, 2011 – The Wellwood Club, Charlestown
- April 07, 2011 – Cambridge Yacht Club, Cambridge
- April 12, 2011 – LGIT, Hanover
- April 21, 2011 – Frostburg University, Frostburg

All workshops are from 9 a.m. to 2 p.m., and lunch will be provided. Please plan to attend and bring your renewal applications and any questions you may have for LGIT staff.

A Valuable Reminder

Since members are compiling renewal information, this is an excellent time to review vehicle and property schedules, including future FY12 property and auto acquisitions, completed capital projects, and changes in the number of personnel. This is also a good time to have department heads review and revise schedules so they are as up-to-date as possible. Doing this now will greatly assist the Underwriting staff and benefit the members.