

OAKMONT

IN THE VALLEY OF THE MOON

RE: Oakmont Village Association – Clubs/Groups and Insurance

Dear Oakmont Resident,

If you have lived in OVA for any length of time, chances are, you are involved in one or more clubs and/or groups within the community. Since these clubs and groups are such a substantial, vital part of what makes Oakmont so unique and such a great place to live, it is easy to conflate Oakmont Village Association with the 160+ clubs and groups that enjoy OVA's community facilities. So, when someone tells you that Oakmont does not *insure* the clubs and groups, a common reaction is to ask, "How can this be? If the clubs/ groups are such a major part of who we are and what we do, but we don't insure them, then what on earth are we insuring?"

To answer these questions, we must first define the Oakmont Village Association's purpose:

According to OVA's Articles of Incorporation, "The specific and primary purpose for which this corporation is formed is **to provide athletic and recreational and club facilities** for the use of the members of the corporation and their guests." (*emphasis added*)

According to the CC&Rs, the Association's purposes include "To **purchase, lease, or otherwise acquire, construct, improve, repair, maintain, care for, own and dispose of all community facilities**... which shall be appropriate for the use and benefit of the owners..." and, *specifically with regard to insurance*: "to purchase, carry, and at all times maintain in force, fire, liability and other insurance **covering all the community facilities, the improvements thereon, and appurtenant thereto** in such amounts and with endorsements and coverage as shall be considered good sound insurance coverage **for like structures.**" (*again, emphasis added*)

It's a subtle distinction, but OVA's mission and purpose are focused on the provision, maintenance, and insurance of the community facilities; its prevailing interest is the condition and ongoing availability of those real estate improvements. In other words, OVA exists to provide the facilities that allow the clubs and groups to exist and operate on those premises: you might think of the Association as a friendly and generous landlord, created to ensure that the clubs and groups (and residents at large) will always have a well-maintained environment to enjoy.

As you can see, the governing documents do not call upon OVA to host, govern, supervise, sponsor, regulate, program, or insure any and all *activities* which may take place upon those premises – OVA is concerned with the premises themselves, and its insurance is written to protect the Association and the premises both from first-party property loss and from liability to third parties arising from the *ownership, maintenance, and repair* of the property.

An argument can be made that the above-quoted language, even though it does not contain a specific *mandate* for OVA to insure the clubs and groups, does not necessarily *preclude* OVA from doing so – and this is a fair and correct statement. The Association *could*, at some point in the future, decide to insure these organizations, but it

does not have an obligation to do so, nor has it extended this insurance in the past – and there are some practical reasons behind this. Consider the following:

- This would open up the Association at large – all 4,800 (+/-) members – to the exposures of each group.
- Some groups' activities are inherently riskier than others (water aerobics, for example, may have a higher risk of injury than a book club), so the members of the higher-risk groups may stand to disproportionately benefit from this new insurance structure.
- Alternatively, bear in mind that insurance policies are written to address the exposures and operations usual to a given class of business, and this approach is reflected in the coverage extensions and limitations/ exclusions. OVA's operations are best served by a policy written for the exposures and operations usual to a community association (which it closely resembles), and it may be difficult for such a policy to adequately service the needs of so many different groups operating within OVA. Various exclusions in the policy would disproportionately impact some clubs/ groups more than others. What happens when one group's claim is covered, but another's is not?
- OVA has a recorded history of not insuring the clubs/ groups. (This has been the case since *at least* 2005 and likely longer; please see OVA's "Recognized Group Criteria Summary Policy.") Altering this determination by affirmatively covering the groups would set a precedent that could be difficult to pare back in the future. Also, if a given club is very difficult or expensive to insure, OVA may not be able to deny them coverage without risking allegations of discrimination.
- Since OVA does not monitor or govern the groups' activities, it cannot exercise risk control measures over its operations.
- Monitoring the groups' operations and new group formations for the purposes of the insurance policy will place an additional administrative burden on OVA staff (and possible exposure if a group is overlooked or a material change in exposure is not reported to the carrier).
- The pool of standard/ preferred insurers with an appetite for resort-style community associations is already limited, and the companies within that pool willing to extend affirmative coverage to OVA's 160+ clubs/groups would be even fewer. Consequently, this particular need would certainly restrict competition over the Association's business in the future.
- An insurance policy that includes all of the clubs/ groups will likely be more expensive – and will become even more so if anyone of the groups experiences a claim.

Both Oakmont Village Association and the clubs/ groups exist to enhance the lives of Oakmont residents, but the clubs and groups are unique to smaller subsets within the community, while OVA's calling is more general. Ultimately, the clubs and groups are in the *best* position to determine what insurance is appropriate and desirable for their activities (if any) and to obtain and maintain that coverage individually, according to their needs.

For more detail, we have enclosed some Frequently-Asked Questions. Thank you for taking the time to review this information!

Sincerely,

Kevin D. Hubred

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