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## MISCELLANEOUS E&O

# Property Related Services

### Classes We Consider

- Appraisers of Real Estate
- Appraisers of Personal Property
- Auctioneers
- Business Brokers (No Valuation)
- Farm Management
- Forestry Management
- Hotel/Motel Property Management
- Interior Decorating (No Structural Change)
- Real Estate Closer
- Leasing Agent
- Mortgage Broker
- Multiple Listing Service
- Real Estate Agent
- Property Management
- Title Agent
- Right of Way Agent
- Escrow Agent
- And Many More

### Claims

**Missing lien.** A claim was filed against a title and escrow company by the developer of two lots in a subdivision. The claimant alleged the defendant was negligent in its failure to locate a subcontractor's lien on the two lots, which were subsequently sold without the liens being satisfied from sale escrow funds. The claimant further alleges the defendant improperly prepared the liens so that the wrong owner was identified. The prior owner and general contractor were added to the litigation.

**Off with the siding.** A condominium association filed a lawsuit against a property management company, alleging it failed to properly manage the financial and physical condition of the property in breach of its contract and its fiduciary duties. The lawsuit arose after aluminum siding was added to the building. The plaintiffs allege the property management company bungled the siding project, citing the selection of an inferior contractor who did shoddy work and used poor materials that caused damage to the structure of the building. A new contractor had to be hired to replace the inferior siding and repair the damage done to the building. Costs escalated when the initial contractor went out of business and the condominium association was not able to recoup its losses. Claims were filed against our insured property manager and numerous other parties including the developer, the contractor, and the manufacturer of the siding.

**Rise and shine.** A real estate company involved in the sale of a home was sued by the home's new owners. During the sale of the home, the plaintiffs questioned the sellers about an isolated shed located just outside the property on a bordering golf course. After being told it was used as storage for golf carts, the plaintiffs decided to buy the house. The suit alleges the carts are raucously removed extremely early each morning. Further allegations say gas tanks buried underneath the shed are dangerous. The plaintiffs seek damages for the diminished value these factors placed on their home.

**Error of omission.** A real estate company is being sued by purchasers of three lots in an upscale community, where the price of homes ranges between \$1-1.5 million. The plaintiffs allege the defendant's sales representative failed to advise them that a road bordering the three homes was going to be moved in a way that would cause the headlights from oncoming vehicles to beam directly at their homes. In addition, they also learned that another residential subdivision was going to be constructed right behind their property. The plaintiffs have filed suit against the real estate company alleging intentional and negligent misrepresentation and violation of local business codes. The issues alleged were neither known to, nor under the control of, the real estate company. The matter was settled before trial with a \$30,000 payment on behalf of the insured real estate agent.

**Underground menace.** A former client filed a claim against a real estate company based on a property assessment performed by one of their consultants. The consultant advised the plaintiff

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that there were no problems with the property, specifically stating that there were no underground storage tanks. Based on the defendant's assessments, the plaintiff purchased the property. Several years later the plaintiff tried to sell the property, at which time the presence of underground storage tanks was revealed. The plaintiff alleges that the consultant who did the assessment failed to properly examine title records for the property, which would have revealed prior use of the property as a gas station in the 1940's.

### Risks Written

- Title/escrow agency. Two open claims totaling \$115,000 in demands.  
Limits: \$1,000,000/\$1,000,000. Deductible: \$25,000. Premium: \$20,200.
- Property management and leasing.  
Limits: \$2,000,000/\$2,000,000. Deductible: \$7,500. Premium: \$15,668.
- Mortgage broker, escrow services, real estate agent/broker services.  
Limits: \$1,000,000/\$1,000,000. Deductible: \$5,000. Premium: \$13,335.
- Real estate management, leasing and sales agent.  
Limits: \$1,000,000/\$1,000,000. Deductible: \$5,000. Premium: \$15,000.
- Real estate appraiser.  
Limits: \$1,000,000/\$1,000,000. Deductible: \$2,500. Premium: \$2,500.
- Property management and commercial real estate broker.  
Limits: \$1,000,000/\$1,000,000. Deductible: \$5,000. Premium: \$31,364.
- Relocation services, real estate agency, property management and relocation logistics management services.  
Limits: \$1,000,000/\$1,000,000. Deductible \$25,000. Premium: \$51,637.

### Tips on Reviewing Property Related Services Accounts

- E&O is intended to cover services performed for others with whom the insured has an arm's length relationship, and not for the management or sale of property the insured owns. Thus, policies have an exclusion related to the sale, management and leasing of property owned by the insured or related owners. Be sure gross revenues from such services are identified separately on the application so that the underwriter can exclude the gross revenues when rating the account.
- Typically, there is a limited give back of coverage related to the sale, management or leasing of insured-owned property. The give back provides coverage equal to the percentage of property owned by parties other than the insured and related owners; hence, if the insured and related owners hold a 10% interest in the property, the policy will pay 90% of the defense and indemnification arising from claims related to the property. The give back applies so long as the ownership held by the insured and related owners is at or below a stated threshold; typically, some level where the insured is not in a position to exercise control over the property. Our limit as in our Real Estate Services Endorsement is 15%.



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