

LIABILITY FOR UNLICENSED AND UNINSURED CONTRACTORS

Even if an Association has no employees, it can still have workers compensation liability exposure. In a recent decision, the Court of Appeals held that an Association and its managing agent were both liable to pay workers compensation benefits to an injured worker employed by an uninsured and unlicensed contractor.

Background. The Montana Villas Homeowners Association retained Pegasus Properties as its management company. Pegasus hired Hruby, an unlicensed and uninsured contractor, to install rain gutters on the Association's common areas. Hruby's employee, Freddy Aguilera, was sent out to perform the installation work. Unfortunately, on the first day of the job, a rain gutter touched a high voltage electrical wire, severely injuring Aguilera. Aguilera filed a claim for workers compensation benefits against the Association and its management company.



Decision. Since Hruby was an unlicensed and uninsured contractor performing work for the Association, in *Heiman v. Workers Compensation Appeals Board* the court concluded that both the Association and its management company were the employers of the injured worker, and both were liable to pay him workers compensation benefits.

RECOMMENDATIONS: As this case demonstrates, hiring an unlicensed and uninsured contractor is never a good idea – even if the job is relatively small, and even if the initially low cost of hiring an uninsured/unlicensed contractor is somewhat tempting. If an employee of the unlicensed/uninsured contractor is injured, an otherwise "small job" can end up being very costly. Therefore, associations and their managers should verify that all of their contractors are properly licensed and insured.

However, merely obtaining proof of the contractor's license status from the California Contractor's Licensing Board website, and obtaining insurance policies/certificates at the time of signing the contract, do not guarantee that those licenses and insurance policies will remain in effect, or that the association will actually be notified of a cancellation. In light of the *Heiman* case, all Associations (even those without any current employees) should contact their insurance agents to make sure they have appropriate workers compensation insurance coverage.

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