

## Ladders....Learning the ropes

Two years ago, I began an incredible learning experience as a volunteer crew member of the “tall ship” *SSV Niagara*, learning the fundamentals of square rig sailing. That experience includes climbing free into very high places at all times of day and night to take in or unfurl sails.

From a career perspective it has been the most extraordinary **demonstration of safety culture** I have ever seen. Every step of the way experienced crew carefully oversee and patiently correct and mentor volunteers. A thorough **annual safety orientation** includes donning survival gear and physically touching every fire extinguisher aboard the ship. And most important among the drills is the “**up and over**” **climbing test** from the deck to the “fighting top” and back down the other side under the watchful eye of the Chief Mate. If he doesn’t think you can climb, you don’t climb.

And so it was with my dear mother-in-law. As she grew older and we realized she was getting on ladders, we removed them from the property. We just said, “no.” Daughter and son-in-law had the power, although we were 30-some years younger.



Unfortunately, in the community of church members, who include fiercely independent elder volunteers, there is less opportunity to create a safety culture. Where labor is so precious, who wants to turn down a free gutter cleaning? And who dares to say “no” to Elder Henry, a 35 year member? And 19 year old Brendon may also need to have his enthusiasm curbed for lack of training and experience.

We continue to experience claims involving ladders and climbing, whether volunteers or employees. While there is important work to be done, we must take extra care of each other, especially when climbing. We must be willing to **evaluate the fitness of others** before letting them climb. Likewise, we must **be humble and accept the advice of others** not to climb.

Next, we should never improvise means to climb a little bit higher. If the ladder is too short, then, it’s too short. If the job requires two hands once up the ladder, then additional equipment is needed. Scaffolding can be rented and provides a platform for two people and four hands to get a job done more quickly. Finally, when new or young employees are on a project, **don’t ever assume such a thing as common sense**. They must be supervised until they demonstrate good judgment and skill.

Here’s some insight about workers compensation claims. Young people are prone to injury more than older employees, speaking to their lack of experience. Older employees are injured less often but take longer to recover than younger employees. So, take care of each other. Both young and old have vulnerabilities.

OSHA (Occupational Safety & Health Administration) provides an *OSHA Quick Card* titled “*Portable Ladder Safety*” at this link: “[http://www.osha.gov/Publications/portable\\_ladder\\_qc.html](http://www.osha.gov/Publications/portable_ladder_qc.html)”; or Google “osha ladder safety.” Please download it and study it.

### Asbestos Alert!

Many older churches have Asbestos Containing Building Materials (ACBM) present in a variety of forms from pipe insulation to floor tiles, and even the mastic. Much of this material is stable and not in a “friable” state, which would pose a health hazard. “Friable” means easily pulverized or crumbled. Occasionally, ACBM is damaged as a result of another calamity, usually fire or water. Insurance policies will commonly cover the additional cost of ACBM abatement when it is damaged by certain perils, but they will not respond to that which is not damaged even though authorities might require its removal. Since 1986 all insurance policies have contained “absolute pollution exclusions,” and then given back very limited coverage for very narrow circumstances.

It’s also possible that a remodeling project will require disturbing ACBM. There will be an additional cost to the project to test for it, provide containment, remove and landfill it, and conduct air testing during and after the project. If you have known ACBM in your buildings, remember, someday all such material will have to be removed and landfilled. You should anticipate and budget for removal, and attend to its maintenance. And by all means, do not permit well-meaning volunteers to tamper with it. Special training and special equipment is needed.

### Claims Corner

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# Govern or Perish

*For there is nothing hidden, except to be disclosed; nor is anything secret, except to come to light.* Mark 4:22<sup>NRS</sup>

*The United States Supreme Court has observed that: "all who unite themselves to [a church] do so with an implied consent to its government, and are bound to submit to it." [Watson v. Jones, 80 U.S. 679 (1871)]. A church's "government" generally is defined in its charter, constitution, bylaws, resolutions, and practice" – Church Law & Tax Report, Jul-Aug 2009*

We continue to be approached for counsel by church leaders/pastors regarding church governance concerns. The recurring theme: individuals assuming power and authority not granted to them by the church's governing documents. These individuals have established exclusive control of financial assets of the church, and refuse to provide transparency or submit to oversight.

Courageous individuals in positions of leadership have recognized these circumstances



for what they are: poor stewardship. These circumstances, the secrecy, tear at the heart of a congregation, and while there is such an environment of mistrust, the congregation cannot move forward. Every church is a small business and every member of the congregation is a stakeholder. Just as Scripture is the foundation and inspiration of all ministry, so are your church's governing documents the foundation of good stewardship.

As you tend to your spiritual life in covenant with members of your congregation, so must you attend to the business life of your church. If you do not, in either case, you will perish unfulfilled. So says scripture ... and the Supreme Court of the United States. Find your church's governing documents. Read them. Understand them. Assure yourself that the leaders you have chosen are serving the interests of your congregation above all.

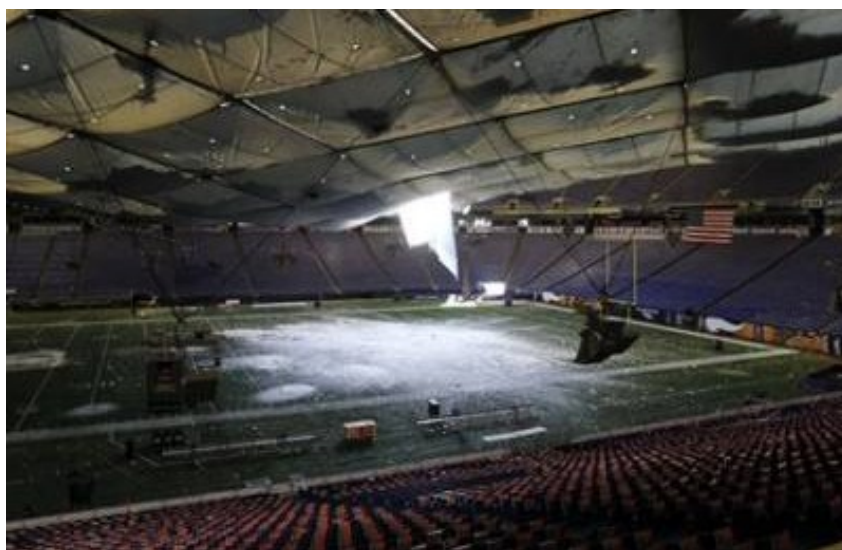
## Collapse Danger: The Weight of Snow and Ice

The year 2011, one of the worst disaster years the global insurance industry has ever experienced, is past. Tsunamis, earthquakes, hurricanes, floods, tornadoes and snow storms have taken a huge toll. The spring of 2012 wasn't great either. Now we can look forward to the winter of 2012-13 and whatever it will bring.

We all remember when the Minnesota Vikings home, The Metrodome, collapsed under 20 inches of snow in December of 2010. Last year, an important loss for the Insurance Board was the complete collapse of the education wing of a New England church. A meeting had been scheduled in the space at the time it collapsed. Thankfully, the pastor had cancelled the meeting due to the serious snow storm that was ongoing. The chemistry of this loss was heavy snow and a flat roof. While flat or low pitch roof

construction is suitable for southern climates, they were never a good idea in the north. Flat roofs are especially dangerous where snow may drift and accumulate in amounts much greater than seen on the ground. This usually happens downwind of a higher roof.

If you see drifting on your flat or low pitch roof, you must consider taking steps to reduce the snow load. A large accumulation of heavy wet snow can have the



same result. Inside, you should watch for any distortion or deflection of drop ceiling framework or panels or cracking of ceiling plaster. If snow removal is warranted, we recommend you contact a commercial roofing contractor rather than employ volunteers on a snow and ice covered roof.



# Herding Your Tenants

*"See, I am sending you out like sheep among wolves. So be as cunning as serpents and as innocent as doves."* Matthew 10:16, International Standard Version © 2008

Churches are worship space, community space and more recently income opportunities. While non-church daycare is common, churches are more frequently sharing (and renting) space with other non-profit organizations, nesting churches, and other groups like Weight Watchers. While these are great community outreach gestures they are not without risk.

When others occupy your buildings they also bring customers and employees. These "business invitees," will likely view you as a landlord, no different than a strip mall. When accidents occur, they will look to your church to recover. While your IB pro-

gram will respond to claims, the costs are reflected in the long run in higher premium to all churches sharing in the program.

The best way to address the added risk of tenants is to **engage tenants in arm's length business relationships**, using formal lease and use agreements which contain hold harmless and indemnity agreements favoring your church. These are to be supported by precise insurance requirements based on the type of organization using your facilities. Required insurance may include property, general liability, workers compensation and other special liability coverage such as sexual misconduct for day care operations. Remember, **obtaining certificates of insurance alone is not a sufficient means to transfer risk to your tenants.**

You might take inspiration from a pastor who took this business relationship seriously when she took on a large contractor, several public agencies and a major insurance company to directly recover the multi-million dollar expense of major damage to her church. In a worship service commemorating the re-opening of the sanctuary, an associate pastor said of her, referencing the scripture at the head of this article, "She is the snakiest and doviest person I know!" That is, **you can conduct very serious business on behalf of your church with good will and grace** without betraying your Christian values.

Insurance Board staff regularly helps churches deal with these types of tenant relationships. We'll be glad to help you.

## Do You Need Builders' Risk Insurance?

The answer for most remodeling and smaller construction projects is "no." The exception may be a major new building, especially in a new location. Builder's Risk insurance is property insurance usually covering the interests of both the owner and builder in property under construction. It is provided for a period of construction, for example, 180 days or a year, and it is rated on the assumption that the value is initially zero and grows to the finished value. Important among the coverages usually provided are (1) property in transit; (2) property in temporary storage; and (3) forms and scaffolding. These suggest things to think about in negotiating with a contractor on a smaller project.

First, note that your Insurance Board program policy automatically provides an additional sum of \$1,000,000 for property under construction for up to 180 days. To complement the coverage already there, you need to have a well thought out construction contract which defines owner and

contractor insurance responsibilities. We suggest that the contractor be responsible for all construction materials until installed and accepted by the owner. By this means the risk is shifted to the contractor for losses in transit or other storage situations. In addition the contractor should be responsible for all equipment, tools and expendable materials used in construction that are not part of the permanent work.

Of course there are other issues of liability and workers compensation insurance, and perhaps a performance bond to be considered. Your contractor must have both "general liability" and "products/completed operations" coverage. Verification of "workers compensation" insurance is critical. As for performance bonds, they will be an additional cost to your project, but you should at least establish that your contractor is creditworthy and can get a



performance bond by showing you a quote.

All of the insurance issues listed above provide financial support of a strong contract with the builder which includes corresponding hold harmless and indemnity terms favoring the owner, your church, and "additional insured" status on liability policies. There is not a single correct way to create a construction agreement, but there are certainly weak agreements. Legal counsel is strongly recommended for construction projects, as well as discussion of options with your insurance agent.

# “The Dash” Strikes Again!

In a previous article in *The Steward*, we advised about a certain author of a popular poem often recited at funerals who aggressively enforces her copyright by making claims against unwitting churches who publish the poem on their websites. The claim amount is usually \$5,000 or more.

Since we continue to see claims from this author, we think it is now important to specifically identify the poem and its author. **Linda Ellis** is the author of “**The Dash**.” She employs people who scour the internet to identify organizations which

have violated her otherwise rightful copyright. Her website prominently contains a section on copyright and **explicitly denies any right to publish her work**. Linda Ellis is so aggressive in defense of her copyright that her tactics have been widely posted on the internet. A little Google search will reveal the story.

Remember, churches have a very limited copyright exemption. For the most part, a work can only be recited during a live religious service. Live by that rule and you will probably be all right.

## What’s In Your Background Check?

The TV commercial for *CapitalOne* credit cards ends with: “*What’s in your wallet?*” intending to cast doubt on the quality of your credit card services. In the same spirit we want to know: “What’s in your background checks?”

The most accurate criminal data comes from a county level check. However, it is potentially very expensive to do county searches on a person who has lived in multiple states or counties. While state level checks are the next best, they rely on a consistent flow of information from the county. Another alternative is an FBI fingerprint check; however, this is expensive and cannot be re-checked without again providing fingerprints.

In a number of states, licensing of day-care and pre-schools requires that employees be screened using the state’s own background checking system, whether the State Police or the Attorney General. Many of our churches report that they are relying on the state-mandated source for their child-serving operation.

We have investigated a number of these mandated state sources and are disappointed to find they have **two major weaknesses** – (1) they often only check their own state’s records, and (2) they do

not search the National Sex Offender Registry. In such states, we recommend an additional minimum check that includes a **multi-state criminal record check** and a **National Sex Offender Registry check**.

A number of states do not make criminal conviction information available to third party services or have no state system at all – CA, LA, MA, NH, NV, VT, WV. If your church is in one of these states, we recommend County level checks in current and former residence and work counties in addition to a multi-state check and the National Sex Offender Registry check.

The Insurance Board provides a background checking service through its business partner, **Praesidium, Inc.**, to all churches and camps eligible to participate in the insurance program. Participating churches enjoy a 50% subsidy on base services from the Insurance Board. A **Basic** background check includes the minimum sources cited above, and other levels of service are available at a small incremental cost. **If your church is located in a state where information is limited or restricted, Praesidium staff is able to work with your church to provide an effective background check by a combination of resources.**

## What You Should Know About Dry Sprinkler Systems

I remember when I saw my first sprinkler leakage claims for a “dry” system. Electrical failure was blamed for permitting the systems to charge with water. The system was not drained after charging and froze, with water damage resulting. I began to question: Why would the system be designed to charge when there is an electrical failure? I investigated the question and learned **what really happened**.

**Dry pipe systems are designed air tight** and are charged with compressed air; pressure is maintained in a range with an electric powered compressor. The system is designed so that when a sprinkler head opens because of a fire, the air pressure drops and permits the system to charge with water and control the fire. This means that **the system must be periodically tested** to assure it is air tight and holding pressure for a reasonable time. Given a power outage of short duration, the system should be able to hold pressure long enough for the power to return and the compressor to operate. If the system leaks air too quickly during a power outage, it will be charged with water and the owner (you) will not know it.

Many churches receive **premium credits** for building sprinkler systems. **To maintain credits, it is required that the system be maintained.** Proper maintenance requires an annual inspection and testing of the system, which includes flowing of water to assure that water flow alarms activate. The air leak rate on dry systems must be within design limits. Some systems have pumps to boost the water pressure in communities where water pressure is low. Periodically parts of the system must be disassembled to test for obstructions. The inspections and tests are done by a licensed sprinkler contractor, with whom you should maintain a contract for regular service if you have sprinklers.

Remember, the IB program is a covenantal relationship among churches in the program. Losses are ultimately shared with other churches in the form of equitable premium allocations. If you receive credits for a sprinkler system, you are obligated to maintain it.

*The Steward* is the joint effort of:  
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The Insurance Board is a non-profit property and casualty insurance program serving the United Church of Christ, the Disciples of Christ (Christian Church), and Presbyterian Church (USA).