



SOCIETY OF PUBLIC INSURANCE ADMINISTRATORS OF ONTARIO

SPIAO NEWSLETTER - JANUARY 2006

TREE RISK MANAGEMENT & HAZARD ASSESSMENT - AN OVERVIEW

Article continued from September's Newsletter.

Professional Observations

The amount of damage that can be visible and still allow a tree to remain is a professional judgement. Several application rules have been developed. The new pruning standards suggests when 22" the circumference is damaged, the tree should be considered for removal. From a mechanical structure standpoint, this is not conservative enough. Once circumferential damage reaches 1/3" or more, removal should be considered. Err on the side of human safety. Remember in examining trees to determine structural integrity not surface appearance. Blemishes that lay-people might consider significant should be examined for structural consequences, but discarded if found to be only a blemish. Find what is the most limiting structural component in the tree and then estimate the risks associated with its failure. Experience of the assessor is critical to risk management evaluations. Do not send inventory counters to make risk assessments without training, practice, and spot-checking performance. Structural failures in trees can generally be summarized as 40% in branches, 30% in stems, and 30% in root crowns and roots. This roughly even distribution suggests several things to a tree professional. The first is that trees are structurally designed to not fail at any given point more than any other. Trees are well equipped to handle stress and strain in their environments. The second suggestion is that failure patterns need to be learned and expectations drawn for prudent management. Careful observation is needed of all parts of a tree to effectively summarize risk levels.

Continued on page 2.



RISK ON THE ROAD

Fast-Food Frenzy Hagerty Classic Insurance Company, a Michigan-based specialty auto insurer, compiled a list of the ten most dangerous foods to eat while driving. The list, featured in Bests Review, is:

1. Coffee
2. Hot soup
3. Tacos
4. Chili
5. Juicy hamburgers
6. Any barbecued food
7. Fried chicken
8. Jelly and cream doughnuts
9. Soft drinks
10. Chocolate.

No wonder the California Highway Patrol and 21st Century Insurance Company co-sponsored a billboard labeling the automobile the "world's riskiest restaurant"!

SPIAO News

With the Holiday Season behind us, it is time to look ahead to the New Year. At the December 2nd Annual General Meeting, the new Executive for 2006 was elected. In addition to myself being re-elected as President, I am pleased to welcome back Joy Jackson, Nancy Taylor, and Brian McEnhill for another year. After many years of dedicated service to your Society, Bo Angevaare and Craig Smith, stepped down from the Executive. I think I speak for all of the SPIAO Members when I say a sincere "Thank-you" to both Bo and Craig for their contributions over the years.

We are very pleased to welcome two new members to the Executive Lucy Montalbano, Risk Manager for the Town of Richmond Hill, and Robert Steinberg, who is with the Grand River Conservation Authority. Welcome aboard!

The next few months will be quite busy for your Executive. We will be organizing the first workshop for 2006 to be held on February 17, 2006 at Lionhead Golf & Country Club in Brampton watch for Agenda and Registration material in early 2006. In addition, we will be organizing the annual Extended Workshop, which will be held once again at the beautiful Briars Resort (see Page 5 of this newsletter) on May 28,29,30.

Once again, we thank each and every member for your support of our programs, and look forward to seeing everyone at the upcoming workshops!

Dave Beal, President

TREE RISK MANAGEMENT & HAZARD ASSESSMENT - AN OVERVIEW

continued from page 1.

Target Risks

Now that structural concerns have been reviewed, let us review the second piece of a hazard tree assessment which is the presence of a target(s). Risk assessment targets are people and property. Anywhere people would walk, drive, stand, lay, run, recreate, etc. could be a target area. Sidewalks, streets, parking lots, ball fields, golf courses and parks are all prime target areas. Property targets most often damaged by trees are cars, fences, buildings, roofs, pavement, yards, and gardens. Personnel injury targets and property targets are usually interrelated. Minimize risk to all personal injury targets. There are many types or classes of targets and some risk management systems try to prioritize management activities by target risk class. This type of target classification is dangerous in community forest risk assessment. Because of legal views of prudent and reasonable behavior by a manager, the only reasonable means of prioritizing by target are people vs. property. The more people, or the more valuable the property, the more target exposure.

Legal Responsibilities

The legal framework for working with tree risks and structural failure varies by location. A community forest manager should always seek professional legal advice when needed. The framework of negligence, injury, and legal tests for prudence and reasonableness are important for understanding the implications of risk. Here I will briefly review general legal components of hazards in a community forest. For community forest managers, actions (and non-actions) will be judged for prudence, (which is the wisdom to look ahead and develop expectations about what can happen), and reasonableness, (which is the lack of negligence). A manager's decisions must meet both of these tests under risk management programs, with the major point of contention being negligence. In a general sense, negligence is composed of four features that must all be true for negligence to be proved. These four features of negligence are: 1. You have a duty to exercise reasonable care; 2. You failed in that duty; 3. Failure in duty caused injury; and, 4. Injury caused real harm to people and/or property. The critical first step is determining your duty under the law.

Duty Concepts

Case law and common law has delineated a

difference between duty principles in rural versus urban settings. Traditionally in rural settings, an owner / manager had a duty to correct or remove known hazards. Duty principles continue to evolve but generally suggest a greater level of duty in urban / suburban areas. In urban areas duty has included removal of known hazards and, in addition, inspection for hazards. Inspection for hazards is a burden that must be met to prevent a failure in duty and charges of negligence. The heightened duty in urban/suburban areas carry over into areas where tree failures could impact roads and trails. Failure in duty can be substantiated by expert testimony and/or by not following customary practice without clear and substantial reasons. This would suggest that failing to follow ANSI pruning standards would be a place of contention in determining negligence. Ignorance by the manager or inspector is challengeable. The action or lack of action can be questioned and supported by expert testimony for examining negligence. One defense that falsely seems to comfort managers and owners is the "act of God." This defense used with hazard trees is challengeable and dependent upon two tests. To use the act-of-God concept in denying liability, a tree must be a native tree planted by nature and a tree must never have been significantly influenced by humans. Few trees in community and yard settings meet these two tests. Act-of-God has not proven to be an effective defense for negligence determinations.

Court Recommendations

As a manager, the court will ask you two basic questions after a catastrophic tree structural failure: 1) "Were the managers negligent or was the tree a nuisance?" and, 2) "Would the hazard have been recognized upon inspection?" As a manager you should be prepared to answer, and support your answer, for any actions or inactions you may have taken. What do the courts recommend managers do to minimize liability risks? Three action items arise continually: A) perform a timely systematic inspection and keep it current; B) develop written documentation of risk management concerns; and, C) use risk assessment inspection results in current and future management. In many circumstances, a lack of a systematic inspection could be considered negligence.

Article continued in the April newsletter

Does Risk Management Really Work?

We are clearly in an era of rationalization, quantification and classification, where the only thing that seems to count is bottom line results and shareholder or public confidence. So, with all the focus on programs that impact bottom line numbers, what about the softer programs that can't be properly valued or quantified under traditional metrics like risk management?

Traditionally, risk management metrics tend to focus on things like premium increases, claims loss ratios, or frequency of loss occurrences. However, the untold story the one that can't be expressed on an organization's Balance Sheet, is in counting the losses that DIDN'T occur because the risk management program was in place. Traditional metrics only count what happened, but often miss the most important issue why a loss did or did not occur.

That is where the belief system must be in place at an organization a system that endorses an unconditional belief or corporate "buy in" that implementing policies and procedures that embed safety and risk management elements into day to day decisions, even though the direct benefits may not be shown on the organization's financial statements, is as important as any expense rationalization program.

Although the cost of insurance is one measurement that can be impacted by the presence or absence of a solid risk management program, the coverage availability issue is an example of something that can't be measured quite as readily. If an organization's insurer restricts or withdraws coverage because the risk management program is ineffective or non-existent, then there may be a lost opportunity for the organization to enter into a new market, business venture or to continue to engage in a particular program/activity (such as sports programs). In extreme cases, an organization without a proven risk management program may simply not be able to continue operating.

The other area where traditional metrics do not serve risk management programs well is in recognizing the efficiency of an organization that does not experience business disruption or re-deployment of resources to address crisis situations. The "cost of risk" extends beyond the insurance premiums paid, and these additional costs will always be at the expense of the organization experiencing the loss. Lost production, overtime wages, expediting costs, refurbishing alternate sites, data recovery, restoring infrastructure,

inconvenience, to name a few, all distract an organization's resources away from their key purposes in the event a loss occurs. In an education setting, these inefficiencies could include busing students to an alternate educational facility, discontinuing curriculum programs, hiring replacement staff, etc. Organizations who do not experience loss events do not incur these disruptions or additional expenses that usually are not covered by insurance. With recent budget and funding restrictions facing public entities, the case for identifying and implementing risk management programs to reduce loss profile is even more compelling even when you "can't count the losses you didn't have". Perhaps the real question is: "Can you afford to have a loss?"

So, does risk management really work? In a word YES. Organizations that make a commitment to believing that embedding risk management programs into all aspects of their business operations are not only laying the ground work for efficient use of scarce resources, but are also able to meet the latest trend- that of demonstrating responsible Corporate Governance. The newest development in board rooms around the world, Corporate Governance is, in essence, a holistic approach to managing and mitigating not only the organizational and financial risks faced by an entity, but also to address the fiduciary duties of each member of the organization's Board of Directors. In cases like Enron and WorldCom, where the Boards of Directors knew or should have known about the financial improprieties that artificially inflated stock prices, class action law suits launched by shareholder groups against the Boards of Directors for these organizations have met with some success in holding individual Directors personally responsible for the losses.

Without risk management programs, loss experience would also drive insurance costs and ultimately availability of coverage beyond reach of many organizations. This is not to be confused with the recent "hard market" conditions, where pricing and availability were problematic due to world-wide problems in international capital and investment markets that essentially tightened the availability of cash to fund insurance capacity. That was beyond the control of any organization with or without a risk management program. However, in spite of the cause, organizations that did not have good risk management programs faced difficulty in obtaining coverage for their risks, and always at a higher a price. International financial forces aside, the absence of or abandonment of risk management programs can create the same outcome in the market place by driving up premium costs and reducing coverage availability.

Continued on page 4.

Does Risk Management Really Work?

Continued from page 3.

Using the traditional metric of claim frequency to demonstrate an example of the benefit of committing to risk management programs, the Ontario School Boards' Insurance Exchange (OSBIE), an Ontario based reciprocal insuring more than 100 school board entities in the province, has tracked its growth in exposure over the past 10 years against its claim frequency under two major lines of business Liability and Property. Commercial insurance market conditions over the past 5 years have resulted in a growth of the exposure base under these two lines (EXHIBIT 1 and EXHIBIT 2). Without risk management programs to control the risk profile, it would be expected that claim frequency would also increase in correlation to the growth in exposure. However, as shown by EXHIBITS 3 and 4, frequency has remained relatively stable during that time period, indicating that risk management programs have impacted expected losses associated with the added exposure. Again, this is a traditional metric that doesn't readily explain or recognize the effect of the risk management ventures that have been implemented. Once again, what is not shown are the losses that did NOT occur. Although we know that frequency did not increase with the added exposure, what we will never know is by how much it would have increased had no risk management program been in place.

In addition to the traditional metrics used to demonstrate the effect of the OSBIE risk management programs, it is still very much a belief system that the risk management programs are effective, particularly when claim experience may spike upward in any given year without explanation. Without focusing on short term results, the belief is that, in the long term, a proactive, multi-stream risk management program promoted by OSBIE and adopted by its members, emphasizing an ongoing promotion of risk awareness, risk identification and the application of various risk management strategies, will reduce risk profile and ultimately impact overall claims experience. This is accomplished through a regular schedule of workshops and presentations, the provision of "tailor made" risk management resources and the implementation of formal programs such as the Human Element Loss Prevention audit program, the Underground Storage Tank Management program and Winter/Ski Activities program, to name a few.

The keys to a successful risk management program is believing that it will reduce your organization's loss potential and a willingness to make a long term commitment. Not much different than the kindergarten mantra we all learned "an ounce of prevention is worth a pound of cure".

David Beal, B.Comm., CIP, CRM

The author, David Beal, is the Risk Manager for the Ontario School Boards' Insurance Exchange in Guelph, Ontario. David has more than 27 years experience in life, property and casualty industries, including roles in sales, underwriting, reinsurance and risk management.

EXHIBIT 1:

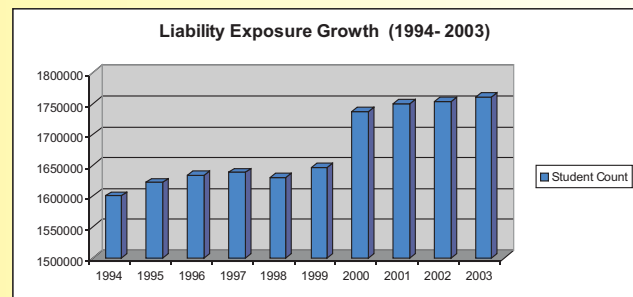


EXHIBIT 2:

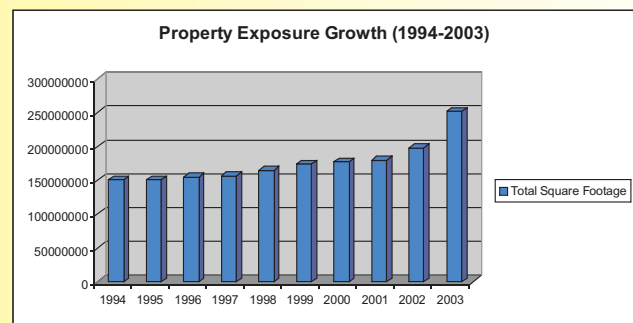


EXHIBIT 3:

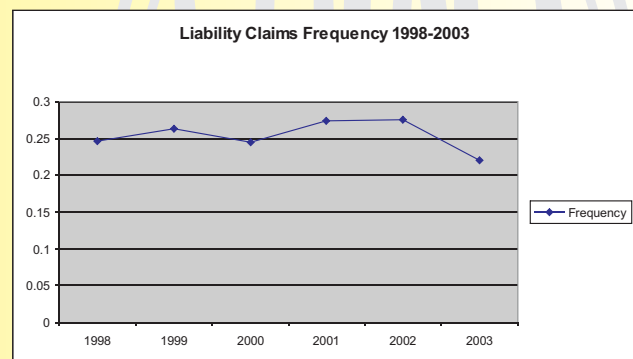
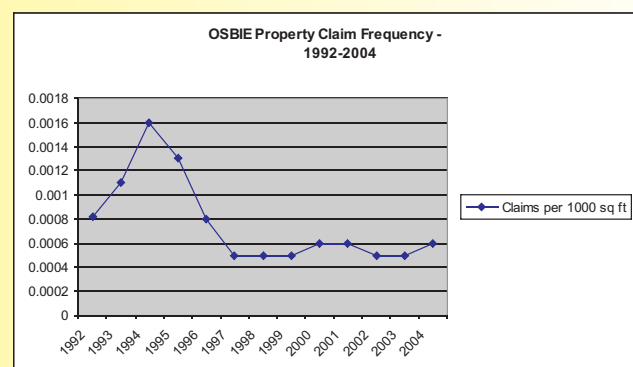


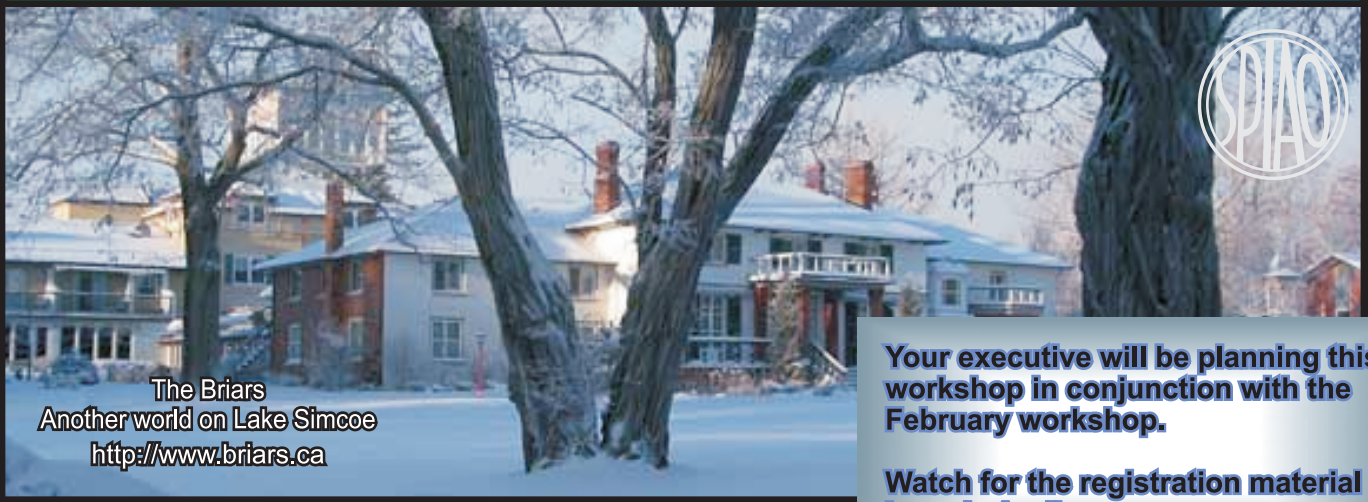
EXHIBIT 4:



SPIAO EXTENDED
WORKSHOP 2005



**SPIAO EXTENDED WORKSHOP
MAY 28 - 30, 2006**



The Briars
Another world on Lake Simcoe
<http://www.briars.ca>

Your executive will be planning this workshop in conjunction with the February workshop.

Watch for the registration material in early April.

"As you know each year we look to sponsor to assist us in putting on a great extended workshop. This year is no exception. If you have contacts you think the executive should solicit, please send them directly to David @ davidb@osbie.on.ca"