

# Risk Matters



A Pooled Liability Assurance Network  
Providing self-insured coverage to cities in the San Francisco Bay Area

## PROVIDING COST EFFECTIVE CLAIMS BY IMPROVING SERVICES

Angela Salsbury, Claims Manager

Paying insurance premiums won't provide the immediate rewards of other city projects, such as new playground equipment, but it will payoff in the long run. To get the most out of your carefully budgeted dollar, ABAG PLAN is continually looking for ways to improve the cost effectiveness of claims handling and risk management services to our members.

Regular meetings with remediation companies, industrial hygienists, auto appraisers, medical bill reviewers and temporary housing agencies educates our staff about available services, vendor reputation and ability to follow ABAG PLAN protocol. By regularly reviewing vendors, we can ensure that vendors meet our members' needs.

We also meet with our members to explain claims handling procedures, provide risk management services, and share information on sidewalk ordinances. During the last year, we also developed guidelines for handling sewer loss claims. If you are interested in any of these services for your city or have other claim handling or risk management needs, please give us a call.

The better we educate ourselves about the range of claims and risk management issues, the better we can process claims fairly and cost-effectively. We understand that today, more than ever, it is critical to reduce your claims related costs. Our aim is to continually raise the standards of claims processing and risk management in order to serve you better. Information about ABAG PLAN current training programs is available on the back page of this newsletter and updated information will be available on the website.

### New Services

Current projects in the works or under consideration this year include:

- Expanding ABAG PLAN's general contractors list for competitive construction bids.
- Providing follow up training regarding the use and types of backflow devices recommended to prevent or reduce future sewer backup incidences.
- Developing and implementing additional training and worksheets to assist examiners to comprehensively evaluate bodily injury claims and to set guidelines and budgets for defense firms on litigated cases.
- Offering additional auto appraisals training for examiners.
- Mailing notices to claimants on the member's behalf.
- Conducting police training sessions.

Additional activities may be added depending on needs.

### What's Inside

- |   |   |   |  |
|---|---|---|--|
| 2 | <b>IN MY OPINION</b> — Another View of Mold Infestation | 6 | <b>RISK BRIEFS</b> — Dealing with Sewer Backflow |
| 3 | <b>COVERAGE CORNER</b> — Training Options               | 7 | <b>RISK BRIEFS</b> — Claim Tips                  |
| 4 | <b>MANAGING RISK</b> — Premium Calculations             | 8 | <b>WHAT'S NEW</b> — Training Sessions            |
| 5 | <b>MANAGING RISK</b> — Strategic ABAG PLANning          |   |  |

## In My Opinion

An analysis of recent efforts to minimize risk and prevent losses

# ANOTHER VIEW OF MOLD INFESTATION

Patricia M. Jones, ABAG Assistant Executive Director

*The last issue of Risk Matters examined mold from the examiner/risk manager's point of view. The following is an account of a resident dealing with a mold infestation.*

**M**ay 2001's damp spot on the hallway carpet ended with the removal of interior walls, insulation, carpets, and carpet pads throughout my condominium and living in a hotel for almost three months. In April and early May, I was affected by morning congestion; red, irritated eyes; and a minor skin rash. I assumed that it was a bad year for allergies.

The discovery of a damp spot in the hallway then led to finding wet carpet in the living room, which a wet-dry vacuum did not dry effectively. My insurance adjuster recommended hiring a clean up company, who used industrial-strength fans to dry out the hallway, living room, and dining area. After one week of drying, the contractor noticed that the sheet rock was still wet, and after removing a small portion of the wall, found a greenish-black mold all over the sheet rock, insulation, and interior wall.

Air testing identified the mold as *Stachybotrys chartarum* and the clean up effort became much more intensive. I then moved into a hotel for what ended up being two and a half months while walls and insulation were removed in three rooms and carpets and carpet pads were removed throughout the condominium.

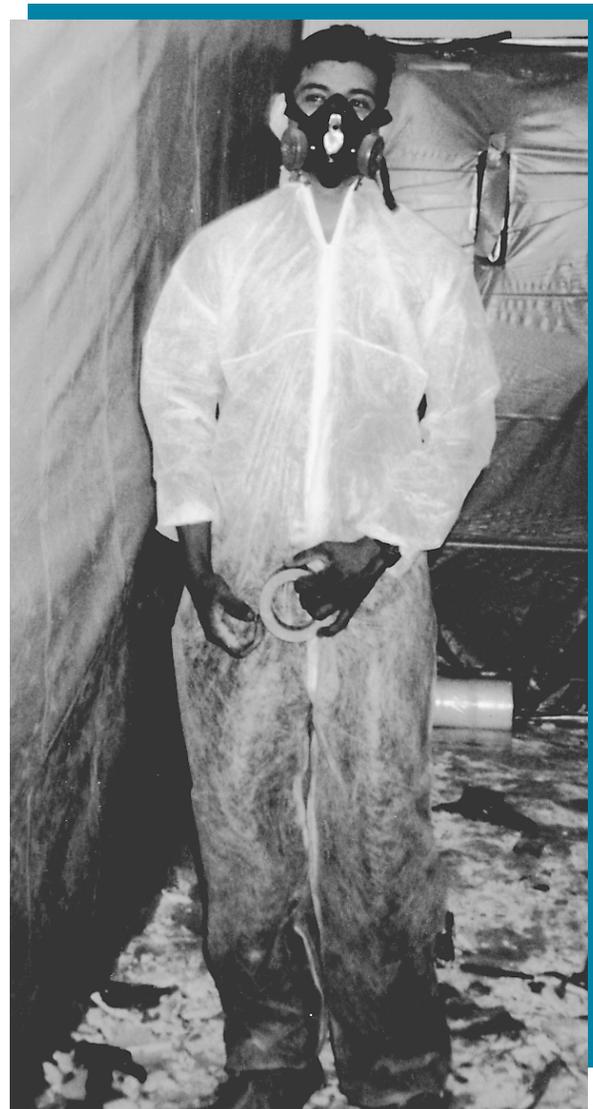
After the initial clean-up effort, air testing continued to show the presence of *Stachybotrys* and clean-up efforts continued until the readings identified safe conditions. The adjuster verified the contractors work and I moved back in late August 2001. Several items of sentimental value from my travels as well as other personal property were damaged during the reconstruction efforts. Compensation for these items was not received until late January 2002.

The cause of the water leak was identified as a broken valve in a

kitchen five floors above, during the owners' vacation out of the country. After six months, I have gained additional perspective about the difficult factors involved in moisture-intrusion cases and remediation efforts, as shown in the following tips:

- Expect residents' health and displacement concerns to play a major role during the claims process.
- Define responsibilities early in the process as far as hiring clean up, remediation vendors, and other contractors.

*Mold, continued on next page*



Clean-up crew

 **ABAG PLAN**  
Corporation  
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**Assurance Network**  
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*Mold, continued from page 2*

- Remind residents that if they have to move out, that homes become construction sites. Residents should take valuables with them or pack them up for protection. Being prepared for the unexpected is what insurance is for. Dealing with mold issues stretches the definition of unexpected. Spelling out to the resident what to expect throughout the process will make it easier and less stressful for the claimant as well as the insurer.



Mold and water damage

## DIRECTOR'S COLUMN

Marcus Beverly, Director, ABAG PLAN Corporation

**Q:** I don't want the city to have to pay for a hired contractor's negligence. How do I know if the insurance required in our contract is adequate and ensure that the contractor has met all the requirements?

**Q:** How do I know if I am requesting the right type of insurance?

**Q:** Has the city's contractor supplied the requested coverage?

**Q:** Will we have to pay for the contractor's negligence?

**Q:** What should I do if a recreational instructor or lessee of city facilities doesn't have required insurance?

**A:** For answers to all of these questions, schedule a training session to find out! In response to numerous inquiries regarding contractual indemnity and insurance requirements, ABAG PLAN has developed a training program designed to assist members in this important area.

The session focuses on understanding the process of transferring risk, identifying risks peculiar to your services and activities, using the right insurance specification and verifying compliance. Topics range from insurance specifications for various activities to developing hold harmless agreements and follow up and recordkeeping.

Training has already been conducted in Campbell, Newark, Gilroy, and Morgan Hill, and we've received very good feedback from the members. I look forward to scheduling more training with remaining members throughout the year. Please contact me at 510/464-7969 or by email at [marcusb@abag.ca.gov](mailto:marcusb@abag.ca.gov)

## PREMIUM CALCULATIONS

Lori Hardacre, Claims Examiner

One of the great benefits of participating in a pooled liability program is the members' ability to make efforts that minimize the premium deposits required to fund the program. Risk management, safety training and prompt claim responses are all actions that help to contain claim costs and hopefully avoid occurrences altogether.

Recently some members have expressed concern about how sending claims to ABAG PLAN for handling might affect their annual deposit calculation. Some members have questioned whether handling some of the smaller claims in-house might lessen their annual deposit to the ABAG PLAN program. This article will provide some information to clarify how the liability pool deposit is calculated.

The annual deposit is based on two principal calculations: loss funding and administrative expenses. Our actuaries determine the amount of "expected losses" for the upcoming coverage year based on our past experience. This becomes our total loss funding for that year. A formula using the member's projected payroll, loss experience for the past five years, and self-insured retention level determines each member's contribution to the total. Only losses above the self-insured retention are used in determining loss funding, so handling small claims in-house does not decrease a member's loss deposit.

Each member's contribution to the administrative expense of the liability program has both a fixed (66%) and variable (33%) component. For the 2001-2002 policy year, the members agreed to a fixed portion amounting to \$32,000 each. The variable (33%) administrative expense calculation is weighted 1/3 on all reported claims and 2/3 on all losses paid of \$1 or more.

The majority of claims handled by ABAG PLAN are either rejected with no payment or a minimal payment settles the case. These will have a small impact on the administrative expense deposit. However, the expense is

shared with other members, and it is only to the extent that a particular member has a greater than an "expected" level of claims activity that they will pay a higher percentage of the cost. The same is true of the loss funding, members with a better than "expected" loss experience pay a relatively smaller amount of the total.

Members with relatively few losses are already paying a relatively small portion of the variable administrative expense. Handling a few claims in-house will not reduce that much of the expense, if any. The time and potential aggravation of handling the claim yourself just isn't worth

it. Of course, sometimes it makes sense to promptly settle a small loss in-house to maintain good community service. We still encourage members to report these claims so we can maintain accurate records of your loss payments and look for trends that may signal a need for risk control.

Another factor to consider is the potential for the claim to

expand prior to reporting it to us. Sometimes it's difficult to tell when a "small" claim will turn out to be a large loss, so it's best to get us involved early.

ABAG PLAN procedures do not penalize members who report minor claims. Remember, only claims above your retention affect loss funding, and the number of claims reported impacts only the variable portion of the administrative expense. So rely on us to get the job done and worry about other things - that's what we're here for!

If a member wants to reduce its annual deposit for loss funding, consider establishing a higher self-insured retention level or reducing payroll expenses. Both of these factors would have a considerable affect on loss funding calculation. We also believe ongoing risk control and loss prevention training will ultimately lower program costs by reducing the frequency of claims. If any members wish to make changes in their self-insured retention level or get additional information about risk control measures and loss prevention training, please contact our office.

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## STRATEGIC ABAG PLAN

Over its fifteen years of operations, ABAG PLAN has successfully met its financial and operational goals. Careful decision-making has resulted in a positive balance sheet, disburseable equity returns to members, and the ability to adapt training programs to accommodate changing claim types. A summary of ABAG PLAN activities is included in the 2001-2002 Statement of Benefits and Program Highlights. Program accomplishments and planned activities and services are also described.

Keeping the organization on track for the next fifteen years and beyond requires planning. In fact, much thought has been given to determining what that track is via a strategic planning process, in which ABAG PLAN members envision the future and then develop the necessary procedures and operations to achieve that future.

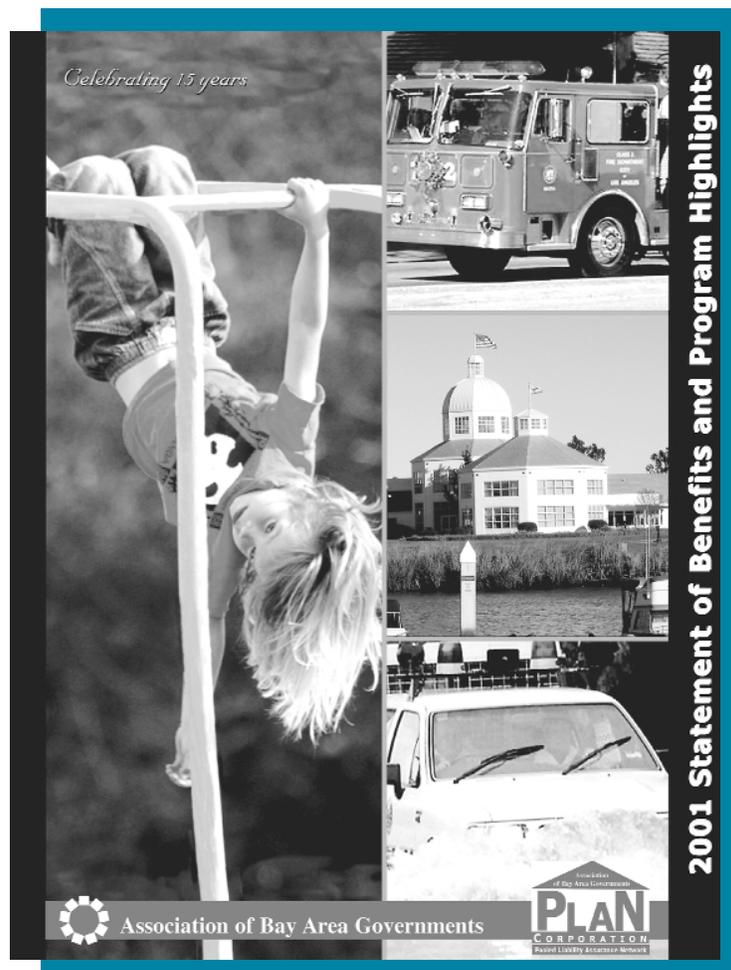
The ABAG PLAN strategic planning meeting took place on October 4 and 5. Previous planning meetings had identified PLAN's strengths and weaknesses and a Board survey established ABAG PLAN and member top risks, planning issues, and service issues. The full Board of Directors met on October 4th to describe the challenges facing the PLAN, and identify opportunities and define

goals for action. The ABAG PLAN Executive Committee then met on October 5th to further distill the goals and develop an action plan to meet the goals.

A number of key areas were identified for action over the next three years, including updating governing documents, committee roles and responsibilities, funding policy, and approach to loss prevention.

Other goals include evaluating ABAG PLAN accreditation, developing a three-year staffing plan, conducting additional survey, and setting strategic plan updates. Each goal has implications to ABAG PLAN operations and members. These changes are needed to address basic risk and operational concerns to keep ABAG PLAN functioning at a high level of service. For example, funding policy issues will impact premiums, self-insured retention limits, funding levels, target ratio/benchmarks, and dividends.

Goals research has been assigned to the various Board committees with target dates set in the first half of 2002. As the committees report back and implementation implications are determined, additional information will be available. Please contact Marcus Beverly at 510/464-7969 with any questions about the strategic planning process.



## Risk Briefs

A summary of risk management events and trends

# DEALING WITH SEWER BACKFLOW

Eileen Barr, Claims Examiner

**S**ewer backflow incidents are not only stressful to the affected residents, but can be a difficult situation for city crews responding to the emergency call. People with raw sewage in their homes want answers, but often the only city representatives available at that time are busy trying to locate the blockage and stop the overflow. It is very important to provide clear information to residents as quickly as possible, even though the issue of liability is not yet determined.

To assist with this difficult issue, ABAG PLAN developed a one-page emergency response sheet that public works crews can hand to the resident, along with an attached city claim form. This helps to minimize the misunderstanding and confusion that can occur during such a stressful time. It also provides the resident necessary safety and mitigation information.

The form states clearly that the city will be investigating the cause of the loss and can not assume any liability for damages at that time. It also assures the resident that if the investigation determines that the city is responsible for this incident, the costs incurred for all reasonable and necessary clean up will be included in the settlement of the claim. The fact sheet provides several names of 24-hour emergency restoration companies available for that geographical area.



City crews should have the resident call the company for emergency clean up services. Additionally, the homeowner should always sign any contract with the emergency clean up company.

The fact sheet includes the name, address and phone number of the claims examiner for the city. This gives the resident a single contact for information and will alleviate numerous calls to various city departments by the very anxious property owner. It also helps to gain early control of the claim.

We are continually working towards developing the most effective response plan for our cities for these difficult claims. Call your claims examiner to set up a meeting to develop a plan and fact sheet that meets the needs of your city. You may contact our Claims Manager, Angela Salsbury, at 510/464-7954 or via email at [angelas@abag.ca.gov](mailto:angelas@abag.ca.gov) for further information.

It is always much easier to resolve a claim when the guidelines are clear to all of the parties throughout the claim process. Our job is to make your job easier.

### Tips for residents affected by sewer backflow

- ✓ Contact a remediation company for clean up and removal of affected surfaces.
- ✓ Do not attempt to clean the area yourself, let the experts handle this.
- ✓ Keep people and pets away from the affected area(s).
- ✓ Do not remove items from the area - the experts will handle these contents.
- ✓ Contact your homeowner's insurance carrier to report a claim
- ✓ If you had recent plumbing work, contact your plumber or contractor
- ✓ File your claim with the City Clerk as soon as practical - see attached claim form. Government Code requires filing a written claim.
- ✓ Call the City's Claims Administrator and provide a number where you can be reached.

*Excerpted from ABAG PLAN fact sheet for Sewer Backflow.*

## CLAIM TIPS

Jim S. Nagal, Claim Examiner

**ABAG** PLAN Property and Auto program members are reminded to report all auto and property claims so that your claims examiner can recover those damages. Most damages arise from motor vehicle collisions with city vehicles or signage, landscaping, hydrants, light fixtures, or guardrails.

The documents needed to start recovery activities are:

- Police report.
- Itemized city damage statement (i.e. labor, materials, vehicle costs, etc).
- Supporting damage documents when applicable (i.e. contractor invoice).
- Any damage photos.

We need damage statements documenting damage costs such as replacement costs for vandalized playground equipment, arson fire suppression activity, graffiti abatement, etc. If reported quickly, we can request the damages be included in any court-ordered restitution. Occasionally, we will receive claims involving minor perpetrators which changes the ability to receive court-ordered restitution.

A recent claim involved a member reported the slippage of a private hillside that blocked a thoroughfare. The city property loss report included copies of the police report, itemized city personnel overtime labor,

engineering contractor invoices for soil removal and disposal, and arborist invoices.

In the Auto Program, we recommend hiring an independent damage appraiser to determine if extensively damaged city vehicles are a total loss. The ABAG PLAN member will need to instruct us if they will retain the salvage, send it to a vehicle auction or have the appraiser secure salvage bids with local wrecking yards. The appraiser report will include the vehicle's actual cash value (ACV) on which the settlement offer will be based. Remember that the Auto Program has a \$10,000 deductible.



Recent slide



Recent slide

Failed recovery efforts on files involving small damage amounts are usually closed after sending a few demand letters and making some telephone calls. The handling of unsuccessful recovery files with large damage amounts are usually taken over by the PLAN member. A possible option for uncollected "medium" damage files is referral to a collection agency; these agencies usually work on a 50% contingency fee basis.

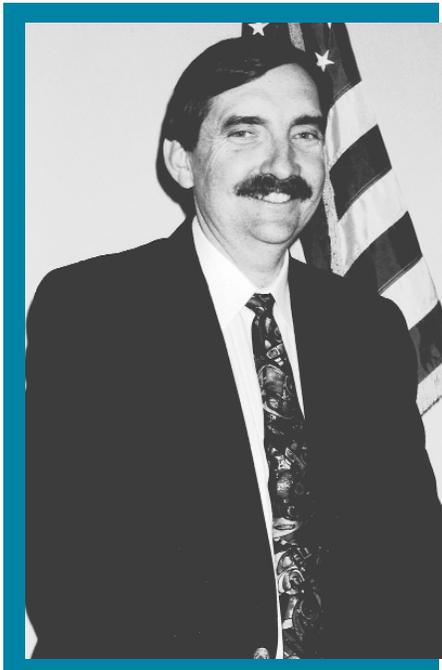
Please call your ABAG PLAN claims examiner if you have any further questions regarding the ABAG PLAN Property and Auto programs.

## What's New

# NEW TRAINING SESSIONS

## Police Training

**G**ordon Graham is presenting an ABAG PLAN specially developed seminar series, Risk Management for Law Enforcement Line Personnel in June 2002. These 8-hour P. O. S. T. accredited training sessions, will be offered on June 17th, 21st, and 25th in MetroCenter auditorium in Oakland; on June 18th at the Santa Clara Hilton; and the 23rd at the City of San Carlos Civic Center.



Fees are \$25.00 for ABAG PLAN members, and \$50.00 for non-members, if space is available.

Gordon Graham is a 25-year veteran of California law enforcement. His education as a risk manager, teacher and attorney, combined with his extensive background in law enforcement, have allowed him to rapidly become recognized as a leading professional speaker with multiple areas of expertise. Over the last decade, Mr. Graham has made over 3,000 presentations to a wide variety of groups. Since 1990, he consistently received the highest evaluations on P.O.S.T. critiques. In 1995 he received the Governor's Award (sole recipient) for Excellence in Law Enforcement Training.

## Other Training Opportunities

**B**oth Defensive Driving and Sewer Overflow Prevention Training sessions are scheduled for later in 2002. Flyers detailing the sessions, locations, and fees will be mailed and information will also be available on the website at <http://www.abag.ca.gov/services/plan/>.

## Calendar

- 2/25**                    **Claims Committee**
- 2/27**                    **Police Chiefs Steering Committee**
- 3/28**                    **Loss Prevention Committee**
- 4/3**                     **Actuarial Committee**
- 4/24**                    **Executive Committee**
- 5/22**                    **Annual Board Meeting**

All meetings at ABAG PLAN Offices, 101 Eighth Street, Oakland

### **Risk Management for Law Enforcement Line Personnel, 8 - 5**

- 6/17, 21, & 25    MetroCenter Auditorium, 101 Eighth Street, Oakland
- 6/18                Santa Clara Hilton Hotel, 4949 Great America Parkway, Santa Clara
- 6/23                City of San Carlos Community Room, 600 Elm Street, San Carlos

Look for Risk Management Law Enforcement flyer coming soon