

## Avoid a liability crisis with E&O insurance

EVEN WHEN A LANDSCAPE CONTRACTOR HAS THE BEST INTENTIONS, MISTAKES SOMETIMES HAPPEN. ERRORS & OMISSIONS INSURANCE CAN HELP.

**A** LANDSCAPE CONTRACTOR DESIGNS a patio across the whole back wall of a house, but the pitch is not correct. During the first spring rains, water flows up against the house and into the basement — a space the homeowner had just spent \$500,000 renovating. All of the new drywall, insulation and flooring needs to be replaced, along with damages to custom cabinets, furnishings and electrical equipment, as well as relocating the family during demolition, and of course re-pitching the patio. The cost comes in at more than \$250,000. It's enough to really damage a business. Fortunately for the landscaper, he had Errors & Omissions insurance (E&O).

That's just one real-life example of a recent E&O insurance claim, says John Hodapp, CPCU, Hortica Insurance & Employee Benefits. E&O insurance is business liability insurance coverage for those who provide professional services. An error or omission, or a "mistake," which causes financial harm to another can occur on almost any transaction in any profession. This type of insurance helps protect a professional, an individual or a company from bearing the full cost of defense for lawsuits relating to such an error or omission, should a client hold them responsible for the errors or the failure of their design to comply with applicable building or zoning regulations. It's something Hodapp says landscape business owners should strongly consider.

"Landscapers typically buy general liability insurance, and that's certainly critical, but often they don't even know about E&O insurance," says Hodapp. "Professional liabil-

ity errors, such as design errors, are not covered under general liability insurance. But if a landscape designer or architect designs a deck or retaining wall and that design is faulty and fails, the claim would be covered under E&O. Another example might be selecting plants that are inappropriate. In a recent E&O claim, a landscape designer created a plan for a site that contained a septic system. The plans specified plants with particularly invasive roots that infiltrated the septic system and required the laterals to be replaced at a cost of \$5,000, which was covered by the insurance."

Tim Garland, president of Garland Alliance, Inc., in Milwaukee Wis., says his business used to be primarily residential, but today it's about 40% commercial/60% residential, and that's changed his priorities a bit. When he started doing more public projects through municipalities or commercial space, he decided it was time to get E&O insurance. "It's an investment to protect myself against any errors in the plans I draw up," he says. "For example, right now I'm doing a boardwalk project at a beach in Milwaukee, and it's open to anybody who wants to use that facility. Anytime you're working on a space that's open to the general public you're really putting yourself at risk and want to make sure you're completely covered."

Looking back, Garland says E&O would have been appropriate for many of his residential jobs as well. And since he serves as a general contractor and oversees projects he doesn't always complete himself, he says E&O is even more crucial. "Sometimes clients just pay me for the design work and then handle the rest," he says. "In that situation, it's especially critical that you have proper coverage because you have no control over the installation."

The exposure is almost always much bigger than the size of the job, Hodapp says. "It's not the cost of the job; it's the damage the job could potentially do," he says. "You may have a \$2,000 job that could result in a \$100,000 claim. No matter the job size, the bottom line is that you have to make sure you're fully covered."

Payton is a freelance writer with six years of experience covering landscape-related topics.



Is your business fully covered?

### 5 IMPORTANT E&O FACTS

1. Statistically, the greatest frequency of E&O claims result from water-related issues.
2. The second highest frequency of design claims involve subsidence issues, such as patios moving, retaining walls failing, and deck posts sinking.
3. More and more large commercial accounts and general contractors are requiring that their landscape companies carry an E&O policy to get the job.
4. Firms that employ certified Association of Professional Landscape Designers (APLD) are eligible for a 15% discount on E&O insurance.
5. E&O insurance is not that expensive. Simpler, more affordable policies are available today.

### E&O SHOPPING TIPS

If you're shopping around for E&O insurance, keep in mind these key options, Hortica Insurance recommends:

- The availability of \$1 million or \$2 million limits of liability
- No self-insured retention (deductible) for most firms
- Short-form industry specific applications
- The ability to provide "prior acts" coverage for firms with prior E&O coverage
- Premiums that are fully-inclusive of all taxes and fees