

When errors occur

YOU CAN'T ALWAYS PREVENT MISTAKES, BUT YOU CAN LESSEN THE BLOW OF PAYING FOR THEM.

A LANDSCAPE DESIGNER/CONTRACTOR DESIGNS a plan that doesn't take into consideration the septic tank field lying just beyond the property — and then selects trees with invasive roots. It's a liability situation that doesn't happen overnight. Several years down the road, when those roots grow into the field, damaging the septic system and wreaking havoc, the designer is still liable. And it wouldn't be covered by a general liability insurance policy.

That's just one of many possible scenarios where errors and omissions (E&O) insurance is so important, says John Hodapp, CPCU, Hortica Insurance & Employee Benefits.

"Errors and omissions insurance is a form of business liability coverage for those who provide professional services for a fee," says Hodapp. "It's different from general liability. Professional liability errors, such as design errors like the septic tank example, require E&O coverage."

Hodapp says that E&O insurance is a specialized form of coverage that protects the business owners against losses that would not be covered by traditional general liability insurance. These include claims for negligent acts, errors or omissions.

"If someone was injured during the installation of those trees, that would be covered by general liability," Hodapp explains. "But the fact that the design was faulty and the trees grew into the septic system is an error with the design, and that's where E&O comes into play. If the contractor isn't covered, the cost is going to have to come out of their pocket."

Up until recently, many landscape contractors and designers have been more concerned about general liability coverage, which is certainly also important. But Hodapp says that businesses

and property owners are becoming savvier about insurance types — and may now require E&O as well.

"If you're working for a school district or a general contractor, general liability is almost always universally required," says Hodapp. "But in the past, E&O coverage hadn't always been required, and landscapers either didn't know about it or chose not to pay for it. Nowadays, more and more businesses are starting to make it a requirement, and we're seeing an increase in coverage. General contractors or property owners are becoming better educated, and they want their landscape contractor to have full coverage."

Even if it's not required for a job, Hodapp says, you may still have the risk of exposure.

"Sometimes it takes that requirement to push contractors to buy the extra insurance," he says, "but the truth is that you have the risk of claims no matter what."

It's important for landscape contractors and designers to remember that the exposure is almost always much bigger than the size of the job, says Hodapp.

"Don't think about the size of the job. Think about the assets you want to protect," he adds. "You could lose your assets on one small job if things go poorly. For example, you may have made \$2,000 for the design and installation of those trees. But it may cost over \$20,000 to repair the septic tank system that was damaged. Regardless of the job size, you need to be fully covered."

Hodapp says that if injuries were involved with a faulty design, those costs could skyrocket even higher. When E&O coverage can be affordable, he says, he doesn't know why anyone would chance it.

"For example, if people are injured by a patio or retaining wall that had a faulty design, those injuries could cost far, far more than the job was ever worth," he says. "It's simply not worth the risk."

Casey Payton is a freelance writer who has covered the landscape industry for seven years.



ERRORS AND OMISSIONS, AT A GLANCE

► **What?** E&O is professional liability insurance that provides coverage for any errors or omissions that may occur from a professional service you provided.

► **Why?** Because mistakes happen. Whether you're an experienced landscape contractor or just starting out, human error is always a factor.

► **When?** Secure E&O coverage before the risk has any possibility of happening. Too many contractors wait until they've had to pay out of pocket for an error that wasn't covered by general liability before deciding to buy E&O for future work.