



OBJECTIVES

The objectives of this large loss claim review are to:

- Examine a CIRMA Liability-Auto-Property (LAP) loss resulting from a claim that resulted from an incident at a disc golf course on town property.
- Discuss elements of the claim that impacted the municipality's ability to mitigate loss severity.
- Develop specific risk management best practices to prevent or mitigate future losses for members based on lessons learned.

INCIDENT BACKGROUND

The claim occurred due to a 52-year-old resident (Claimant) becoming injured while playing disc golf at a CIRMA member town park. The 52-year-old claimant fell when "teeing off" from an elevated wooden platform on the 7th hole of the town disc golf course. Injuries sustained by the claimant include a dislocated shoulder, fractured patella and tibia, concussion, and contusions to the face, arm, torso, and legs. As a result of the incident, the claimant filed a negligence lawsuit against the town, highlighting the injured resident's physical damages, lost wages, and emotional distress. The town settled the claim out of court for \$80,000.

INCIDENT INVESTIGATION

- The incident occurred in early May when a 52-year-old resident (Claimant) and his 17-year-old son played disc golf at a town park.
- The weather on the day of the incident was partly cloudy, with a high of 68 degrees, and it was noted to have rained on three of the five (3 of 5) days before the incident.
- While the Claimant was teeing off from a wooden platform on the 7th hole, the Claimant's foot slipped, causing the Claimant to lose his balance and fall from the wooden platform onto the natural land below.
- The Claimant's son called 9-1-1, prompting an emergency response. Due to the uneven terrain and lack of accessible entrances to the 7th hole, a rescue operation was conducted to safely access and transport the injured Claimant to a local hospital.
- The Claimant was diagnosed with a dislocated shoulder, fractured patella and tibia, concussion, and contusions to the face, arm, torso, and legs.
- Following the incident, the municipality's Chief Elected Official (CEO) notified CIRMA of the potential loss and that his team had begun an internal investigation, as few individuals within

the municipality knew that a disc golf course had been installed within the town's park.

- The following facts were determined through the investigation:
 - The town's Parks and Recreation Director coordinated with an acquaintance (non-employee) to erect a disc golf course within the municipality's park approximately three (3) months before the incident.
 - The town was not made aware of this project; thus, prior authorization was not granted in violation of the town's existing protocols.
 - The acquaintance had no history of designing or constructing a disc golf course.
 - Emergency response plans and evacuation routes had not been developed in coordination with local emergency responders in the event of an injury.
 - The wooden platforms erected by the acquaintance did not meet the applicable building code.
 - The materials used for the wooden platforms had not been pressure treated, which was discovered on tags affixed to the wood.
 - Signage had not been installed at any of the entrances to the disc golf course.

INJURY AND DAMAGES

As a result of the Claimant's fall and subsequent injuries, the Claimant retained legal counsel, who ultimately filed a notice of intent to file suit against the municipality and its officers. The suit alleged that the town had a duty to provide safe park facilities and that the municipality failed to develop and maintain such areas adequately; thus, the Claimant alleged that the public entity's negligence was the sole proximate cause of the Claimant's damages. Damages include medical and attorney fees, lost wages, and emotional distress.

Because the investigation determined that structures were installed within the disc golf course and the injury was not the result of natural land or unimproved property, the municipality worked with the Claimant's legal counsel to settle this matter outside of court for **\$80,000**, inclusive of all attorney fees.

CONCLUSION

Municipalities regularly develop and maintain well-manicured and accessible areas for residents to live, learn, work, and play. When established protocols and processes are not followed, corners can be cut, and liabilities can be exacerbated.

The State of Connecticut outlines the liabilities of political subdivisions (i.e., municipalities) under the Connecticut General Statute (CGS) 52-557n. Connecticut law establishes liability for municipalities caused by, among other factors, negligent acts or omissions of any employee or agent thereof acting within the scope of their official duties or employment. However, subsections of CGS 52-557 provide a number of exceptions to liability when:

- The owner of the land makes all or part of the land available to the public without charge, rent, fee, or other commercial service for recreational purposes (52-557g),
- The damages to a person or property result from the condition of natural land or unimproved property (52-557n(b)(1)).

It is imperative to review proposed recreational projects and determine how municipal and recreational use statutes can impact the public entity's liability.

KEY RECOMMENDATIONS/ACTION ITEMS

CIRMA Risk Management has developed recommended best practices to help prevent these types of incidents from occurring and advises CIRMA members to review the following:

- Follow the town's existing protocols for "capital improvement" projects and other initiatives, including:
 - Properly getting the project approved by leadership and commissions, when applicable,
 - Properly obtaining required permits,
 - Properly overseeing the project,
 - Properly reviewing the work that has been done for safety/compliance;
- Regularly communicate the town's existing protocols for "capital improvement" projects to town staff and volunteers, when necessary, to ensure compliance with established protocols;
- Consider training applicable staff on Connecticut's laws regarding parks and recreation liability, including governmental immunities established through Connecticut General Statute 52-557;
- Consider utilizing, managing, and reviewing effective signage at municipal parks and recreation areas;
 - For additional assistance in reviewing signage, consider referencing the CIRMA's *Managing Risk Through Effective Signage Whitepaper*, consulting your CIRMA Risk Management Consultant, and working with the municipality's legal counsel.