



VOLUNTARY SECTOR FORUM

RESPONSE

TO THE

**REPORT TO THE GOVERNOR IN COUNCIL ON
RATES AND AVAILABILITY OF FIRE, OTHER
PROPERTY AND LIABILITY INSURANCE FOR
HOMEOWNERS, TENANTS, NON-PROFIT
ORGANIZATIONS AND SMALL BUSINESSES -
NOVEMBER 1, 2004**

FEBRUARY 14, 2005

Voluntary Sector Forum

85 Albert Street

Ottawa, ON K1P 6A4

613-238-7555

cberry@vsi-isbc.org

The Voluntary Sector Forum

Voluntary sector organizations touch the lives of millions of Canadians each day in areas such as social services, arts, faith, sports, recreation, and environmental protection. The sector includes an estimated 161,000 registered non-profit and charitable organizations and thousands of unincorporated groups that have formed to respond to the needs and aspirations of their communities across Canada. They contribute almost 7% of the GDP to the Canadian economy –more than agriculture and retail trade combined.¹

The Voluntary Sector Forum (“the Forum”) is a leadership body comprised of 20 members from across the Canadian voluntary sector. Its membership reflects the knowledge, diversity, experience and common interests of the sector. The Forum has a mandate to build and engage the sector and address issues that are of concern to voluntary sector organizations across the country. Affordability and availability of liability insurance are issues of priority concern.

Important Findings

The Forum applauds the work of the Nova Scotia Insurance Review Board (“NSIRB”) in having investigated and reported on the serious issue of accessibility and affordability of liability insurance, and the impact of the hard insurance market on the voluntary sector in particular. In 2004, the Voluntary Sector Forum collected information from over 300 voluntary sector organizations through regional meetings and an on-line survey about their experiences in obtaining liability insurance². The NSIRB Report adds important information to that research.

The NSIRB Report contains extensive yet concise background information on the insurance industry. It will be a valuable resource for voluntary sector organizations to better understand how the insurance industry operates.

The NSIRB Report also affirms the experiences of non-profit organizations across Canada. Its findings reflect recurring themes³ of the hardship caused by the market situation throughout Canada:

Volunteer organizations are having difficulty attracting and maintaining volunteers because insurance costs have become the focus of their fundraising efforts. Some individuals refrain from volunteering due to fear of being sued. Volunteer groups have limited budgets and the sudden and unpredictable insurance premium hikes of recent years cannot be absorbed. Organizations are closing and are cutting programs and services. Volunteerism, in general, is being threatened, as people feel vulnerable without proper liability coverage. Many small community activities such as

¹ Statistics Canada. (2004) *Satellite Account of Nonprofit Institutions and Volunteering*, online: <http://www.statcan.ca/english/freepub/13-015-XIE/2004000/economic.htm>. If the value of volunteer work is added, the total contribution to GDP is 8.6%.

² Voluntary Sector Forum, (2004) *Liability Insurance and the Voluntary Sector – Framing the Issues*, online: http://www.voluntary-sector.ca/eng/liability/framing_issues/index.cfm, at Key Findings [“Framing the Issues”]

³ *Ibid.*

parades, fairs, and festivals are similarly affected; and fundraisers have become frustrated as they see all their efforts going towards insurance premiums.⁴

Premium increases and restrictive underwriting have had a direct impact on the service delivery of non-profit organizations.... The Board heard that all forms of activities dealing with the care of children are coming under increased scrutiny by the insurance industry. Activities involving the care of children are becoming uninsurable or cost prohibitive.⁵

Given the mounting evidence that these experiences are widely shared by voluntary sector organizations, the Forum supports the NSIRB's call for action by provincial and federal governments as well as insurers, brokers, customers, and the public.

The Forum was also particularly interested in the NSIRB's finding about the impact of provincial legislation:

The Board questioned the insurers on various Provincial statutes ...to determine the impact these statutes have had on insurance company underwriting and rating practices. From their responses, it is clear to the Board that insurers as a whole give very little import to these statutes and have relatively little knowledge of them.⁶

This is the subject of further comment below.

NSIRB Recommendations

The Forum supports a number of the Board's recommendations and urges their adoption by the responsible authorities and parties. See Appendix A for a list of recommendations specifically supported by the Forum.

The following general conclusions have been derived from those Board recommendations:

Government regulators should work with industry to collect and analyze insurance data. [NSIRB Recommendations: 1(b), 1(c), 4(b), 5(a)]

The lack of publicly available and reliable insurance data is a chronic systemic weakness that inhibits appropriate analysis of risk pooling practices. Nearly twenty years ago, the 1986 Ontario Task Force on Insurance expressed concern about this issue in its Final Report:

“..The Task Force suggests that the industry associations and the government authorities make a special effort to develop statistical and analytical programs to fill most of the gaps noted above. Much the same plea was made about a decade ago...Not much has happened in the intervening decade. In this crisis, the public and the industry have suffered more than they needed to, in part because of the confusions resulting from the gaps in statistics and analysis. It would be

⁴ NSIRB Report at 61

⁵ NSIRB Report at 71

⁶ NSIRB Report at 79

unfortunate if a Task Force or a Legislative Committee a decade from now had to repeat this plea."⁷

Ontario is the only jurisdiction that heeded this plea by instituting a form of mandatory reporting of Property & Casualty insurance data. We applaud the NSIRB's initiative to redress this problem on a national scale, and have brought the NSIRB's recommendation to the attention of the Senate Standing Committee on Banking, Trade and Commerce for consideration. Our brief in this regard is attached as Appendix B.

Communications between insurers, brokers, and their customers need improvement. Specific standards should be developed to clarify the roles and responsibilities of each party. [NSIRB Recommendations: 2, 8(a), 8(c)]

Implementation of these recommendations would address concerns expressed by non-profit organizations about a lack of clear standards as to how premiums are determined, why certain programs and activities are excluded from coverage, and why non-profit organizations are categorized together with other sectors. Collaborative dialogues have been initiated in this regard. Sustained efforts and wide involvement will be needed to result in meaningful change.

Insurers should provide financial incentives to encourage organizations to practice risk management [NSIRB Recommendation: 20]

The Forum's *Framing the Issues* report⁸ affirms that voluntary sector organizations do not presently perceive any financial or other recognition from insurers for having risk management programs in place. We agree that offering premium discounts is a way to reward and encourage such desired behaviours, and to reflect that such organizations should be at lower risk of claims. This would create a win-win-win situation: the insured receives a financial incentive, the insurer reduces its cost of claims, and the community is better protected against avoidable risks.

Insurers should educate brokers and insurance customers about risk management principles [NSIRB Recommendations: 20, 8(b)]

We agree that insurers are well-placed to disseminate information about risk management and should be well-motivated to do so to minimize their cost of claims. Appropriate targeted risk management campaigns would help protect the community against avoidable risks.

It is important to inform and educate relevant parties about legislative changes to ensure that the intended effect of the legislation is realized. [NSIRB Recommendation: 4(a)]

The NSIRB's finding that insurers are not aware of, nor giving effect to, legislation designed to protect volunteers is disturbing. The *Volunteer Protection Act* was designed to support the volunteer movement, yet appears to have had little impact to date. This

⁷ Ontario, Ministry of Financial Institutions. (May 1986). *Final Report of the Ontario Task Force on Insurance* at 159.

⁸ *Framing the Issues*

circumstance could be addressed by initiating analysis of its intended and probable legal effect, development of guidelines for insurers and brokers, and a communication strategy to disseminate the conclusions.

In cases where obstacles affect special voluntary sector activities or programs, the government should be willing to consider implementing legislative or other remedies to address them if appropriate. [NSIRB Recommendations: 22, 23]

The voluntary sector's contribution to Canadian society is unique, yet also carries unique vulnerabilities. The NSIRB Report ably articulates the severe hardship experienced by the voluntary sector during the current hard market situation, and identifies a few specific concerns raised by particular types of organizations.

Voluntary sector organizations perform much-needed services and are essential to the social infrastructure of our communities. Their programs deserve special attention from governments.

Conclusion

Various research⁹ projects have studied the impact of the current hard insurance market on voluntary sector organizations to assess the scope and details of their concerns. The NSIRB Report, however, is the first one that was able to collect data directly from the insurance industry to provide much-needed background information from the industry perspective. This adds a new dimension to the dialogue and contributes practical and concrete recommendations to address both short- and long-term concerns.

The Forum welcomes the NSIRB's contribution and will incorporate the Board's findings in its ongoing efforts to address this serious issue.

⁹ Examples include: Wendy Doughty & Jim Klinge (April 2004). *Insurance Liability Study*. Edmonton Chamber of Voluntary Organizations (ECVO), online: <http://www.voluntary-sector.ca/eng/liability/ecvo/ecvo.pdf>; Michael Goldberg (March 2002). *Protecting Volunteers And Non-Profit Organizations: A study on Risk Management and Liability Insurance of Voluntary Organizations in British Columbia*, online: http://www.ucscop.com/uploads/images/5/risk_management_final_report_Apr_402.pdf

Appendix A
Selected Recommendations from the NSIRB Report

1. Government charge the Superintendent of Insurance with the responsibility of:
... (b) Working with other provinces, either on a Canada-wide basis or on an Atlantic-Canada basis, to establish mandatory statistical plan reporting, and timely compilation and release, of detailed premium, exposure, and claim information for personal property, commercial property, commercial liability, and director's and officer's insurance;
(c) Working with other provinces, either on a Canada-wide basis or on an Atlantic-Canada basis, to establish mandatory reporting and timely compilation and release, of detailed expense information for personal property, commercial property, and commercial liability insurance.

2. Government require that policyholders be given at least 45 days prior written notice of non-renewal, cancellation, coverage restrictions and premium increases, along with a full explanation of the reasons.

4. (a) Government work with industry and the non-profit sector to ensure full awareness and clear understanding of the protection offered by the *Volunteer Protection Act*.
(b) Government require, through the Board, that by a special data call, insurers provide detailed historical liability claims data for non-profit organizations, for Nova Scotia and Canada – by organizations that are solely volunteer and organizations with employees - and that the Board conduct a special study of the industry data to determine if the premiums being charged reflect the liability risk of the non-profit sector.

5. (a) Government require, that the Board, in conjunction with Recommendation 4(b), make a further special data call, requiring insurers provide detailed historical liability claims data, for Nova Scotia and Canada – by type of injury, nature of injury, cause of injury, number of claims, amount of claims, etc. and have the data analyzed to gain a better understanding of the costs attributed to liability claims and the factors that may be contributing to those costs.

8. (a) IBANS establish a business practices committee to set standards for its members' operations to ensure consistency in the manner brokers deal with the public, such as explaining available options available to consumers to reduce premiums, higher deductibles and availability of discounts.
(b) IBC provide both broker training and consumer education on risk management practices such as oil heating and woodstove safety, on safety and preventative initiatives such as block parents, and 4-H, and on assessing and managing risks in general, through seminars, brochures and news articles.
(c) IBANS establish business standards that require their members to explain the deductible options that are available and the effect that each has on the policy premium to all insurance applicants and to provide this information in all renewal notices. Insurers that deal directly with consumers, without brokers, should also take on this responsibility.

20. The insurance industry should offer premium discounts for implementing risk management programs and should educate the public on the benefits of risk management programs.
22. Government conduct further study to develop a viable solution to the insurance problem faced by volunteer fire departments.
23. Government explore the removal of the stipulation in the letters of authority for use of crown lands that trails associations and other users carry liability insurance on provincially owned trails.