

Insurance for community gardens

By Jack Hale, Executive Director, Knox Parks Foundation

For several years, the board of the American Community Gardening Association has been working to provide liability insurance for member gardens. Surveys of members suggested that obtaining such insurance was a priority for many gardens. We did provide access to coverage during 1998, but less than a dozen gardens took advantage of the offer. In 1999, the insurance company was unwilling to renew the coverage, and we were unable to find another carrier. Although we continued to seek a carrier, we were unsuccessful. Here is what I have been telling members who are seeking insurance.

1. Liability insurance protects the organization that owns it or some other entity (like a land owner) who is "named as additional insured" on the policy. It protects gardeners or volunteers indirectly only if the insured organization stands between them and a potential lawsuit. It does not protect individuals from legal action, nor does it necessarily pay individuals for injuries or damage that occur at a garden. Most gardens have insurance because they have an organization to protect or because some other entity requires coverage in order for the garden to exist.

2. Usually, individual gardens seeking liability coverage will pay a high price. Just as group health insurance is much less expensive than individual coverage, insurance purchased by a larger organization to cover a multitude of risks will be less expensive per coverage than the same insurance purchased piecemeal. Therefore, if you are a single garden suffering from sticker shock, the best avenue may be to ask a larger organization that already has liability coverage to sponsor the garden. Such organizations might include community groups, churches, horticultural/agricultural organizations, or anything else that might work in your locale.

3. Often it is a city or town providing land for a garden that is requesting insurance. They usually have a "risk manager" whose job is to protect the municipality against all risk. Whenever the town enters into a relationship, that relationship is passed before the risk manager, and the risk manager almost always says "buy insurance" to protect the town. But towns always have lots of insurance. They engage in lots of risky business. Adding a community garden to their list of risks will have almost no impact on their overall risk and on the cost of their insurance. It becomes a political issue and should be treated as such. If the town wants to support community gardening, the risk is trivial; if the town doesn't want to support community gardening, it is easier to say "buy insurance" than "we don't like you." A side issue that arises in some cases is whether the gardens are public. In Berkeley, California, the city wanted to require insurance and also require that the gardens be open to the public. People who don't want to support gardens compare them to parks that are ostensibly open to everybody

all the time. They point out that community gardens have fences and gates and private plots. More politics. Perhaps compare your garden to a football stadium. Very risky activity going on there, and fully supported by the town! Anybody can go and watch when there is a game on, but hardly anybody gets to play. Which is more exclusive, a garden or a sports field? Remember that anybody can walk by and look at the garden. You might even schedule some times when the garden is open for public enjoyment. This does suggest, however, that gardeners need to design and maintain their gardens in ways that truly do enhance their neighborhoods.

4. Insurance is a local business, governed to some extent by state law and regulation. Although there is a certain amount of uniformity and insurance companies operate across state lines, your experience with coverages and costs may be quite different from those in a neighboring state. If you have to buy insurance, a creative and responsive local agent can be very important. Remember that there is a good chance they haven't insured a garden before and they will have to figure out how to do it. Here in Connecticut, we started out with an insurance agent who decided gardens were like vacant lots, which tend to attract inappropriate uses. Premiums were based on street frontage and they were high. Strangely enough, our largest garden, which had no street frontage, was insured for nothing, while one of our smaller gardens on a corner lot carried a high premium. Our current agent, which specializes in insurance for non-profit social service organizations, decided gardens were like social service programs and did a more general analysis of risk. Our premiums are now quite low.

5. If gardeners or garden officers are concerned about personal risk (i.e.- potential for being sued as individuals due to their involvement in a garden), the best solution is probably "umbrella coverage." People can usually obtain this for a relatively small premium as an add-on to homeowner's or renter's insurance. Talk to your agent.

6. I am not an expert on insurance. Don't take this as professional advice from me or from the American Community Gardening Association. At best, this is an indication of insurance issues as they have been faced by community gardens throughout the U.S. (not much info on Canada). You need to work out your own local situation. I will be happy to talk to anyone interested in exploring this further. I will also attempt to respond to questions about the information provided here and specific insurance issues.

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