Errant ball…oh no!

By Drew Brien

Spring has sprung - flowers blooming, birds chirping, longer days - and that also means more outdoor recreational activities. With some COVID-19 restrictions being lifted playing catch in the park or golfers knocking off rust in the driving range, can result in WCIA seeing an increase in claims resulting from errant ball strikes near baseball fields and golf courses.

When a ball strike occurs, who’s at fault?

Generally speaking, when a ball strike occurs and damages property at no fault of the owner, the owner prefers the damage be paid for by anyone other than his/her own insurance for fear of increased rates. That doesn’t mean a member was negligent. It is the position of WCIA that our membership is not responsible for the skill, or lack of skill, of the individuals using recreational facilities provided to the public by our members.

For example, as much as Mr. Smith might try to hit all greens in regulation, realistically, he’s lucky if he is able to keep his ball in bounds. Even Tiger hits an errant shot every once in a while. Similarly, young ball playing enthusiasts sure are cute to watch, but they aren’t known for accuracy at their age. Even the most experienced professional baseball players hit foul balls.

Many of the claims WCIA receives for errant ball strikes end up being denied. We often refer the claimant to their own insurer and advise that if their insurer feels our member is liable, that their insurer can subrogate WCIA. It would be uncommon for WCIA to receive a subrogation demand from a private insurer due to a ball strike in or around one of our member’s facilities because insurers understand that owning the property does not create liability.

In the event a claimant comes to one of your recreational facilities and says he/she experienced an errant ball strike:

- You should, if possible, contact the party who struck the ball and share that party’s contact information with the claimant. (Of course, we understand this is not always possible.)

- You and your staff should be careful to not say something like:
  - “This happens all the time.”
  - “You’re not the only person this has happened to.”
  - “Don’t worry our insurance will take care of it.”
Each claim is handled on its own merits, and certain situations can result in WCIA offering a settlement for a ball strike claim (e.g. old and tattered netting on a golf course along a road that allows golf balls to easily pass through). When the COVID-19 restrictions are lifted and these types of recreational facilities are rented out to leagues or for special events again, members should require liability insurance that names the City as an additional insured. This way, if there is any damage caused by an errant ball, it may assist community members who are visiting the recreational facility or live nearby.

Accidents happen - we know that - but providing a place where people can have fun doesn’t make you liable. So, get outside, enjoy the nicer weather and yell ‘Fore’ if necessary.