

# What Lurks Beneath The Surface: The Case of the Waterway Washout

**Best Practices for  
HOA Property Contracts  
and Maintenance**



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Navigating relationships with neighbors can be tricky for anyone. But that's especially true for golf courses and country clubs with multiple homes lining the course. And when a structure such as a waterway, pond, dam, or bridge, straddles the property line, well, things get even more complicated.

For example, there might be a question of who owns the structure—the club or the Homeowners Association (HOA)—and thus, who's responsible for maintenance? Or worse, who's liable for damage?

In the story below—based on an actual claim—you'll see through the eyes of a club owner as they wade through the damage left behind after a waterway washes out. We'll then provide some best practices to help prepare and protect your club from this kind of exposure.

## What Lurks Beneath the Surface

You've always had a good relationship with the HOA and the homeowners around your golf course. Any time they've had an issue—from unruly guests on the course to downed trees encroaching on their property—you and your staff respond swiftly and courteously.

Standing before the bridge that once allowed access to both your course and the surrounding residential properties, you're at a loss. The hillside between the golf course and the HOA land has collapsed. And the waterway that runs along the properties has washed out the bridge, rendering it impassable. Many of the surrounding homes also appear to have sustained damage from the flooding. As you take stock of the situation, and glance at the 35 missed calls on your cellphone, you realize that the relationship you've worked so hard to nurture is quickly eroding.

"Thomas?" You turn to see your insurance adjuster, Madison.

"Oh, hi. I was just..." you trail off as you look back over the damage.

"I understand," she says.

After a moment, you turn back to her. "Sorry. Do you have any idea what happened? No one was hurt, right?"

"No one was hurt. Only property damage," Madison says. "As far as what happened, it seems there was an issue with the culvert used for the waterway overflow. Either there was a structural issue or an obstruction. Without the overflow, the water went the only place it could and took the hillside and the bridge with it."

You nod, both relieved and still astonished at the sheer amount of water and damage before you.

"When you're ready, I'll need to get some information from you. Any documents you have regarding the waterway. Maintenance records for the overflow system and management of the culvert. Any agreements you have with the HOA."

"I'll have to check my files," you say, looking up toward the clubhouse, your heart starting to race a bit. "I don't know if I have any maintenance records. Isn't that the HOA's property?"

"It could be. We'll have to look at the documents you have and compare it to the HOA's records."

You have a sinking feeling as you think through what kind of formal agreement or contract you have with the HOA. Madison must see it on your face, because she puts a hand on your shoulder as she says, "We're going to get everything figured out. We'll just take it a day at a time."

## Protecting Your Business

Ultimately, more than three million gallons of water washed over the bridge and surrounding area. The cause for the collapse was later determined to be due to a lack of maintenance of the overflow pipe and culvert for the waterway.

In the lawsuit that ensued, it was discovered that it was unclear exactly who owned the waterway. This also meant the party responsible for its maintenance was difficult to establish. There was no contract in place between the club and the HOA, which led to a very messy—and expensive—lawsuit.

Fortunately, there are steps you can take to protect your club from similar exposures.

### Ensure There's a Contract In Place

If your golf course is in a community that includes an HOA, ensure there are clear contracts in place. These should explicitly state:

- Who owns what on the property and surrounding area
- Who is responsible for maintaining it
- Who holds the liability for it

Be sure to include all natural and man-made structures such as ponds, dams, culverts, bridges, and waterways.

### Develop a Maintenance Schedule

If your club owns and is responsible for the maintenance of structures like the waterway mentioned in the story, develop and adhere to a thorough and consistent maintenance schedule. Keep detailed records of all maintenance that is conducted. Generally, the better the documentation you have in place, the quicker and more cost-effective any claims resolutions are likely to be.

### Make Sure You're Covered

Work with your insurance provider to ensure you have adequate Liability and Property coverage in place to cover your entire grounds. This includes any natural or man-made structures if they are owned or maintained by your club.

Your insurance agent or broker can also help you identify and manage risks you might not be aware of. Remember, their business is to protect your business. They can help ensure you have the correct processes and procedures in place, and ensure you are documenting these properly. That way, if you do have a claim, you are in the best possible position to respond quickly and cost-effectively.

*For more information about how you can minimize risk for your club, and to ensure you have the coverage you need, reach out to your Account Manager or contact us today at [info@vgminsurance.com](mailto:info@vgminsurance.com) or **800-362-3363**. You can also check out our other resources and real-life claims case studies [here](#).*

