



Session Toolkit

LIABILITY LESSONS

Understanding insurance for
artists



OTTAWA ARTS
COUNCIL | CONSEIL DES
ARTS D'OTTAWA

SESSION OVERVIEW

The COVID-19 pandemic spurred on many challenges for artists. It also created some new opportunities for growth and professional development.

The following toolkit summarizes **Colette Mendenhall's** video session lending her expertise in insurance for artists working a variety of disciplines.



General liability insurance



Contents Insurance



Art Objects Insurance



Public Art or Commissioned Art



Professional & Media Liability Insurance

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General liability insurance

General liability insurance (GLI) helps you cover claims that your art practice or arts organization caused bodily injury or property damage to. You can get GLI as a stand-alone policy or bundle it with other key coverages. General liability can cover the legal fees to defend you in court or the cost to repair the property of others up to the limit of the policy. The limits are usually one, two or five million, the most common limit being 2 million.

TIP #1 If you work from your home, then you might believe you don't need general liability insurance or that you are covered under your home insurance. However, by not disclosing to your insurer that you work from home, you risk incurring major costs for any incidents that may occur as a result of your working from home.

The best thing to do is to be transparent with your insurance broker and tell them about the activities you carry out from your home. They will help you find an insurance company that is willing to insure your home and add an endorsement to your policy to cover your professional activity.

TIP #2 If you are a woodworker or sculpture and we're from your garage, there's a good chance that your home insurance company will not want to cover your general liability for your artistic practice, the risk being too high. You will then need a commercial insurance policy.

General Liability Insurance also covers bodily injury or property damage to a third party, a third party is someone that is not insured on your policy. Which brings us to the definition of an insured. An **insured** other than you includes your employees, volunteers, and temporary workers in general, those who carry out activities that are part of your normal activities to be considered insured.



Contents Insurance

Contents insurance helps pay to replace or repair your personal belongings if they are stolen or damaged by a covered peril, such as a fire or theft. If someone breaks into your studio and steals your computer or your furniture is ruined in a fire, you may find that contents insurance helps cover the loss. Most insurance policies are **all risks**, meaning they cover just about any risks such as fire and theft, except those that are excluded. The most common exclusions are sewage backup, earthquake, flood, rodents, insects, temperature change, war and terrorism.

There are three bases of evaluation you can ensure that replacement cost at actual cash value or an agreed value. Replacement costs means what it will cost today to replace the damaged object with the same object.

Deductible: A deductible is an amount the insurer will retain in case of a claim most often 500 or \$1,000.

Co-insurance is the requirement that policy-holders ensure a minimum percentage of the property's value in order to receive full coverage for claims the insurer commonly require at 85% or 90% of the property's value to be covered. Why do insurers require co-insurance? Essentially to discourage under insurance, because most property damage does not result in a total loss.

TIP #3 Coverage for content is awarded on premises. If you take a camera, a laptop or some sound equipment to a location not covered under your insurance, these items won't be insured unless you have coverage for portable equipment. When art is insured under content than to our knowledge very few insurance companies cover more than the replacement costs of the canvas paint and frame. You should ask your insurance broker how you would be indemnified in case of a claim.



Art Objects Insurance

As an artist, it is possible to insure in case of damage, your art whether the art is damaged at your studio, in transit, or while being exhibited. The key as to how much you would get in case of a loss is the basis of evaluation for your art. Here, you must have fine art insurance.

Gallery represented artists: If you are represented by an art gallery, then the value of the artwork is the amount you would receive from the gallery when the artwork is sold. So if the consignment agreement is 50/50 and the selling price is \$5,000, then you would receive \$2,500 when the art is sold, or if it is damaged beyond repair 2500 minus the deductible.

Self-represented artists: If you are not represented by an art gallery, then it will be the selling price less 20% through Assurart.

TIP #4 CARFAC has developed a standard contract to help artists navigate art brokerage. The best practice is for your gallery to have insurance for art while it is under its care and custody. Some galleries will agree to cover in transit to and from the gallery while others will say it is the artist's responsibility to insure in transit. This is something that is important to clarify in the agreement between the gallery and the artists. It will help in case of a claim.



TIP #5 Most claims are due to damage to artworks in transit. Proper packing is key so is choosing the right Transit Company. It is easier to settle the claim when there is a condition report and photos of the package evidencing that it was done properly. Some insurance policies exclude improper packaging. Therefore, a picture of the art prior to packing a picture of the art in the crate with the wrapping and a picture of the crate ready to go could be very useful.



Public Art or Commissioned Art

Most contracts for public art or commissioned art require the artists to have general liability insurance and all risk property coverage insurance as soon as the contract is signed until the artwork is installed and the owner approves it. Insurance must provide coverage while the artwork is being designed, fabricated, shipped and installed.

TIP #6 It is important to consider the right insurance coverage for your public art project. Many artists ask why they should insure the artwork if they only design it and then use subcontractors to fabricate and install it. In most cases, it is a contractual requirement for the artist to carry insurance. If something happens during the fabrication process, the artist will claim to their insurance company even though it is being fabricated elsewhere. And the insurance company will indemnify them so they can start over. If there is some form of negligence on the part of the subcontractor, their insurer might choose to subrogate to recuperate the amount paid. That is why it is best for each to carry their own insurance.

TIP #7 Ask your subcontractors for proof of insurance and sometimes it might even be a requirement from the public art insurer. The city will ask that any professional such as an engineer, whom you retain have professional liability and omissions insurance.





Professional & Media Liability Insurance

Professional liability and media liability insurance covers professional errors and omissions for art conservators and appraisers who provide professional services. These professionals can be sued for causing financial damage due to an error or omission in the scope of their work.



Botched restoration effort at Yunjie Temple in Chaoyang, in northeast Liaoning province

Example: A conservator can ruin an artwork by mistakenly applying the wrong product. The owner of the artwork would ask for compensation and the art conservator's insurer would indemnify the client and defend the conservator if it went to court.

Errors and omissions insurance would cover the financial loss and the legal fees for anyone creating an original work of art media, liability insurance can be of interest. Similar to general liability insurance. It covers the cost of the venue and the indemnity to be paid, should you be found guilty of plagiarism, libel, defamation or copyright infringement.

As mentioned, it covers you if you are sued, but not if you are a victim. In other words, the insurance company will not sue on your behalf for plagiarism, libel or defamation. But it will defend you.

Resource links

Assurart Insurance <https://assurart.com/>

CARFAC Agreements <https://www.carfac.ca/agreements/>