

**WHY DO PROPERTY OWNERS AND MANAGEMENT COMPANIES  
ACCEPT SERIOUS RISK WHEN IT CAN BE AVOIDED  
SO EASILY?**

Property owners and property management companies and their officers and executives are finding themselves more and more drawn into lawsuits caused by an alleged breach of security at a property. The property can be commercial or residential, hi-rise or campus style infrastructure, low-income to prestigious resident and can be located anywhere in the U.S.

In one recent case, the estate of a tenant killed in the building sued the property owners, the property management company, and even sued the president of the property management company as an individual for wrongful death.

In today's violent and legal "trigger-anxious" world, it is unwise to place yourself in the position of being sued for a security breach, particularly where lawyers are only too eager to find the owners and management companies **Negligent**.

It is likely, in the event of a security incident, that the property ownership and management will be sued, but there is a substantial difference in being sued and being sued for alleged negligence, and even worse, if gross negligence is alleged.

Given the list of violent incidents that take place within rental and leased buildings throughout the U.S. and subsequent lawsuits resulting from an alleged breach of security, it is important to ensure a property is adequately protected, but what exactly constitutes such a level of protection?

The answer is that the necessary level of protection is going to vary building by building and the required level can only be determined by an **SVA (Security Vulnerability Assessment)** conducted by experienced and qualified individuals.

Where a qualified, certified and highly experienced security consultant undertakes such an assessment, or SVA, it results in the following:

**1) Correct Threat Level Identification:**

It is particularly important in any security environment to know the level of **Threat** that a facility or property is facing before considering the various improved security options available, or in simple terms, the who, or what that the facility should be protecting against.

There is a significant difference, both financially and manpower-wise between protecting a property from serious local gang terrorism and infrastructure destruction, as opposed to dealing with theft, vandalism, tenant assault, or other form of criminal act, or a disgruntled resident intent on making a statement against the property owners, etc.

2) **What To Protect Most (Critical Assets):**

As with (1) above, it is also important to identify those **Critical Assets** that must be protected at all costs (those assets that if compromised, are likely to have the most serious consequences for the organization), given that it is not possible to protect everything.

It is unfortunately true that it is not possible to protect all assets for financial and logistical reasons. Correctly identifying the Threat Level and Critical Assets are essential to then determining Security Design Criteria.

3) **Security Design Criteria:**

There is no such thing as guaranteed 100 percent security (the ingenuity of the human mind precludes such a goal, and logistically it would be difficult, if not impossible to achieve), and thus it is vitally important to have **Security Design Criteria** (those specific reasons as to why a certain security system was installed in place of another, and why security devices such as cameras and access control readers were placed at certain locations and not at other points within a property).

A professional SVA will identify such Security Design Criteria, and allow a building to defend itself against alleged wrongdoing in the event of an incident.

Many clients do not have design criteria of any sort for their property, and in the event of an incident and court action, one of the first questions asked by the plaintiff's attorneys is "what were the design criteria for the installed security systems?" The inability to answer this question immediately places the property owners and management defendants in a less than favorable light with any jury.

4) **Findings & Recommendations:**

Perhaps the most important section of an SVA, as this section provides an invaluable assessment of those issues most likely to have serious consequences for the property owners and management.

A professional assessment of such issues is generally based on many years of security industry experience, where the consultant team has experienced first-hand, what should be in place in terms of security measures, and what is effective and what is not. The same assessment is also likely to be based on direct experience with current legislation, and knowledge of pending legislation.

Recommendations will also illustrate cost/effective and reasonable methods of addressing such issues, while limiting the security solutions to those necessary to meet specific requirements and/or legislation. Again, a professional SVA prevents "overkill" and excessive cost in dealing with security issues.

5) **Legislation:**

Since “9/11” there has been extensive Security Legislation covering many industries, as well as the eight Key Infrastructures identified by the U.S. Government in 1998. Substantial new security legislation is either going through the “House” at this time or is pending.

As previously stated, it should be noted that the majority of security legislation requires an SVA as the first stage of such requirements. A common mistake in security is to base security measures on minimum code requirements. This is not recommended as juries in a court action will be guided by what should have been reasonable security measures based on the locality, building environment, recent history, crime statistics and a host of other factors that the plaintiff’s lawyers vehemently assert should have been taken into account with respect to adequate security for the property.

A professional SVA takes into account all current legislation that might apply to an organization, as well as looking at the potential effect of pending legislation so that an organization has time and flexibility to incorporate reasonable solutions into their medium and long-term planning.

6) **Resident/Tenant Confidence:**

Many commercial organizations have utilized an SVA as a means of increasing their customer’s confidence in their ability to provide reliable and protected services and/or product. In the residential and commercial property management environment, this translates to providing a safe and secure environment in which to live and/or work in.

By instituting an SVA and then commencing an appropriate implementation program concerning the agreed recommendations of the SVA, the organization has communicated via such actions to their tenants and residents as further reason for that person to choose their property over others.

One well publicized incident can do untold damage to the reputation of a property and the property management company involved.

7) **Counter Liability:**

In the event of an incident within a property or facility, the event would almost certainly be followed by a law suit that is also likely to allege some degree of **Negligence** or even **Gross Negligence**. The inability of the owners and property management company managing the property to demonstrate that they had already carried-out an SVA by a qualified party is likely to be seen as an immediate example of the failing of that entity.

**Note:** It should be remembered that the implementation of SVA recommendations is not governed by a precise time period, and from experience, many recommendations can be instigated using existing manpower with minimal cost. Thus, it will be exceptionally difficult for any defense team to prove any form of negligence where an SVA was performed, and where at least a part of the implementation program is shown to have been underway.

An SVA specifically addresses situations which may be considered liable for the client.

**8) Insurance Compliance:**

Insurance companies are now asking a number of their insured customers to undergo an SVA as part of the insurance company's due diligence before setting a premium for that customer.

Although not necessarily a mandatory requirement for most properties at this time (many insurance companies are considering more stringent security requirements), an SVA will provide evidence to any insurer that their client has taken steps to prevent possible liability, including negligence and gross negligence, as well as meeting legislation requirements, and identifying potential security problems.

Provided that there is some intent to implement recommended measures over a period, the client may see a discounted insurance premium, or avoid a substantial increase in the insurance premium, in the event that they have not carried-out an SVA.

**9) Development of a Phased Solution:**

An SVA provides an opportunity for a client to address potential security problems in a flexible manner, and over a phased implementation period. In many cases, it is possible to develop a phased timetable of implementation based on asset protection priority, and over several years.

It also allows a client to incorporate security requirements, whatever they might be, and whether it is to meet legislation or prevent possible liability, over a period of years, thus easing the financial strain of having to meet security requirements in a hurry following an incident, etc.

It should be remembered that where a property has taken steps (many initial steps in improving security are low cost and often undertaken by existing maintenance staff), it will be very difficult for a plaintiff to allege any form of negligence in the event of an incident.

**10) Emergency Planning & Preparedness:**

One of the byproducts of a professional SVA is typically the updating of any Emergency Response Plan, not to mention the correct identification of critical assets within an organization or property.

Knowing the full extent of potential consequences of given actions, the owners and property management of a building or residential/commercial campus are able to better respond to an emergency with appropriate resources at minimal cost, and to be able to demonstrate their overall preparedness for such emergencies.

#### **11) Measured Response:**

Where an SVA has identified correctly, the credible Threat Level, and Critical Assets, and likely consequences of criminal, terrorist, or negative tenant/insider actions, the property owners and management can deploy the appropriate resources to address a situation.

From experience, the measured response is likely to be far more effective, and also likely to be more cost/effective taking into account the findings and recommendations of an SVA than it would be without the benefit of such information.

#### **Why a Professional and Qualified SVA?**

Perhaps one of the more important aspects of conducting a professional SVA (Security Vulnerability Assessment), and doing so through an appropriate security consultant with adequate experience in such matters is that by doing so, the Owner and Management Company are now transferring any liability to the security consultant.

Any reputable consultant in the security field will carry **General & Professional Liability Insurance** with a minimum level of coverage of \$1 million or more. As a note of interest, this firm carries \$3 million.

It would be normal to add the property owner and management company directly to the insurance policy.

#### **SUMMARY:**

Many properties have security problems, whether they are low income, moderate income, or high end residential, commercial office campuses, or commercial hi-rise buildings. The solutions will be varied, but if part of an SVA's recommendations, those same solutions can be phased over a period of years, based on risk priority and other factors. There is presently no legislation that specifies a time requirement in terms of a phased approach.

**SUMMARY (Continued):**

Security Vulnerability Assessments are moderately priced and compared to a negligent law suit, represent a minor cost, and at the same time offer not only exceptional insurance in reducing risk, but provide significant benefits, such as:

- Identifying True Threat Levels.
- Providing a List of Critical Assets.
- Providing Security Design Criteria in Keeping with Security Industry Standards & Best Practice.
- Listing Findings & Recommendations that Reduce the Cost of Appropriate Solutions.
- Assures Properties that they are in Compliance with Current & Pending Security Legislation.
- Assures Tenants that they made the Correct Decision in Choosing Your Property.
- Essentially Halts Serious Charges of Negligence.
- Helps with Insurance Costs.
- Provides a True Phased Approach Backed by Experts.
- Assists Emergency Preparedness.
- Ensures a Measured Response in Keeping with the Property & Providing an Optimum Solution.

**Given all of the above, is there any reason that property owners and property management groups would not avail themselves of such a service?**

For more information and assistance, please contact:

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