

HIGH PROPERTY DEDUCTIBLES

NOVEMBER 2019

Current Market Situation

The insurance market is in a hardening state caused by historically poor performance. As one of the worst performing sectors in the insurance industry, Strata and Condominium Corporations are experiencing a significant realignment in underwriting philosophy from most insurance companies.

In an effort to ensure the long-term insurability of this class, insurance companies and their underwriters have been forced to take a more disciplined and more risk averse approach to the terms they provide.

Large Deductible

The most readily available tool to control exposure to risk is the application of higher deductibles, especially on those types of properties with a history of poor claims experience.

Unfortunately, in some cases the only way to obtain insurance is by applying large deductibles. Deductibles of \$100,000, \$250,000 or even higher have started to become the minimum insurers will consider for some large or poor performing properties.

When large deductibles form part of the policy, it is important that a risk management plan be put in place by the corporation to meet its financial obligations following a large loss.

Owner Responsibility

All owners should be purchasing their own personal insurance to cover their exposure related to ownership of their unit. One of the coverages included in a condominium unit owner's policy is deductible assessment coverage, which covers a responsible unit owner for the deductible amount when the Strata or Condominium Corporation assess it back following a loss.

Most condominium unit owner insurance policies include some form of deductible assessment coverage; but each owner should check with their personal insurance representative to ensure that they have an appropriate limit of coverage for this potential exposure. We would also recommend that councils and boards take all necessary steps to make owners aware of the maximum amount that could potentially be assessed back to a responsible owner.

Some options for personal insurers and their available limits:

Insurer	Part of homeowners package?	Minimum limit	Maximum limit
Aviva	Included	\$25,000	\$100,000
Chubb	Included	\$25,000	\$100,000
CNS	Included	\$25,000	\$100,000
Dominion	Included	2.5 x contents limit	
Family	Included	\$25,000	\$75,000
Intact	Included	\$25,000	\$75,000
Sonnet (online provider)	Included	\$500,000	\$500,000
Square One (online provider)	No, purchased separately	\$20,000	\$250,000
Wawanesa	No, purchased separately	\$10,000	\$100,000

**Please note that this information is subject to change and limits may be different in your region or for your specific risk. This list is not intended to be exhaustive and other options may be available.

Deductible Bylaw

Care should be taken to ensure that bylaws properly allow the deductible to be charged back to responsible unit owners following a claim. However, we also suggest that care be taken to ensure the transferred burden on unit owners is not so onerous that they are unable to meet their obligations following a loss.

Attached is a sample insurance deductible bylaw provided by Lesperance Mendes Lawyers.

This by-law does two things:

1. Ensures the corporation has the ability to charge back a deductible to a responsible unit owner; and
2. Limits the maximum deductible assessment to an amount that is readily available from personal lines insurers.

This sample by-law is provided as a draft only, the bylaw must be reviewed and amended as required by each corporation's own legal counsel prior to implementing a change.

Talk to Us

Questions can be sent directly to your service team.

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realestate@bflcanada.ca

For more information on our people and our services: bflrealstate.ca

Strata insurance rates are rising.

Here's why and what strata councils and unit owners can do.

Answers to frequently asked questions.

What has changed?

Over the course of 2019, strata corporations across Canada either received notice of a premium and/or deductible increase on renewal of their building insurance policies, or were advised that they should budget for increases on their next renewal.

In B.C.'s Lower Mainland region, where an estimated half of its total 2.7 million residents live in strata-titled property, these increases are having a widespread impact. One real estate insurance brokerage advised its Vancouver strata corporation clients that they should budget for a 25%+ increase in insurance costs for 2019, possibly higher if the property had suffered losses. Some renewals have reportedly increased anywhere from 50% to 300% and the deductibles to cover claims have also increased substantially, from \$25,000 per claim to as high as \$250,000 and \$500,000; at least one building has had its deductible increased to \$750,000.

What do strata insurance policies typically cover?

The owners of individual units in the strata building all own a proportionate share of the common property. To help ensure that all owners' equity is protected, the *Strata Property Act* requires strata buildings to be insured for full replacement value of all common property, common assets, and fixtures. This includes the original construction, including finishing attached to the building. The insurance valuations must be based on recent appraisals.

Because of the ownership structure of stratas and their commercial-grade systems (plumbing, boilers, electrical, heating and ventilation), strata buildings are insured with a commercial property insurance policy, which is typically used for businesses but modified for strata property.

Strata unit owners insure their contents, plus upgrades made to the unit, under a "condo" homeowners' policy. These policies include two crucial coverages: 1) liability insurance to cover damages from losses that originate in the unit and extend to the common area or other units, and 2) coverage for a portion of the strata building's deductible in the event of a major claim.

Why are strata building insurance premiums increasing, and why is the increase so high?

For any business, when cost increases threaten to cause deficits, remedial action is needed. That is especially true for insurance: insurance companies must maintain reserves to meet the demands of future claims, and they must disclose financial information to the federal regulator, the Office of the Superintendent of Financial Institutions, to demonstrate that they are meeting its requirements.

Like other financial instruments – interest rates, for example – insurance rates are constantly being revised in reaction to market forces and emerging trends. Such is the case now with

commercial insurance in general and strata building insurance in particular. The past years of growth in B.C.'s strata-housing market created a protracted and highly competitive market where normal-level premiums were unduly suppressed. Along with housing prices and financial products, insurance rates tend to follow market cycles.

Other factors leading to strata insurance premium increases include:

The number of claims has increased. When a water failure or fire occurs in multi-unit buildings, multiple units are often affected. The result is a higher likelihood that the cost of repair will be substantial. The increasing growth in the number of strata developments, the aging of strata buildings (many date back to the 1970s and '80s) and the natural reluctance of strata owners to undertake major system upgrades until problems occur with more frequency all add up to increased insurance claims and repair costs.

If your building has a history of claims relating to water escape from system failures and/or resident activities, or it has an aging building system with a poor record of maintenance, its increased risk profile will also add pressure to the costs and levels of deductibles.

The cost of rebuilding has increased. B.C. saw real estate property values increase a few years ago. Even though government has imposed measures to cool the market down, property values remain high and construction costs in the Metro Vancouver region have risen between 7 and 15% in the past year.

The local market is affected by global losses, which are increasing. The increase in frequency and severity of fires, floods, severe storms, and earthquakes elsewhere in the world reminds us that we face a similar escalation of risks here at home.

Recent advances in technology and computer modelling are making more information available about areas that may be at higher risk of fire, flood and earthquake. This modelling technology, plus the actual insured costs of recent major Canadian losses, has allowed insurance companies (also referred to as insurers) to make more accurate evaluations of how much insurance should cost in a given area.

To keep the cost of insurance as low as possible, insurers are allowed to transfer the need to maintain reserves for catastrophic losses (those over \$25 million) to other insurance companies known as reinsurance companies. While this has the benefit of keeping premiums lower, it also makes local insurance rates vulnerable to losses that occur elsewhere in the world.

Catastrophic losses from weather-related incidents are a leading reason for current premium increases. As reported by the world's largest reinsurance company, Munich Re, 2018 was the fourth-costliest year since 1980 for insured losses. And 2017, with hurricanes Harvey, Irma and Maria, was the costliest. With major weather-related payouts occurring annually, companies are incorporating that risk into pricing because it's now the new norm.

Increasingly, smaller, regional insurers are leaving the strata-building market to the larger, national insurers, which is reducing the competitive options for strata corporations.

How does this impact owners of strata units in B.C.?

Strata unit owners should be aware of impact on the building policy and their unit policy:

If your strata corporation is faced with a substantial increase in insurance rates, the cost will

be reflected in your annual budget that determines your annual strata fees. If the deductible is dramatically increased to \$100,000, for example, it means any claims under \$100,000 are not covered by insurance and, subject to your bylaws, each owner is likely responsible for damages to their strata lot with the strata corporation responsible for the cost to repair common property.

The result is many of the repair and replacement costs that have been covered by the policy of insurance taken out by the strata corporation will now be downloaded onto the affected owners in the event of a claim.

Coverage for owner liability more important than ever. The *Strata Property Act* establishes building insurance deductibles as a common expense, but also allows the strata to sue an owner to recover the cost of repair or the deductible portion of a claim if the owner was responsible for the loss.

To save the potential legal costs of suing an owner to prove their negligence caused the loss, many stratas have passed bylaws making owners “strictly liable” for any losses that originated from their units. Review your strata bylaws: How does your strata approach this issue?

Condo policies can include coverage for this transfer of the deductible costs to owners.

If an owner is responsible for a claim (for example, their washing machine hose fails, and escaping water causes damage to other units and common areas), the owner could be responsible for the \$100,000 deductible or the full cost of repair if it is less than the deductible. *Now, more than ever, unit owners will want condo homeowner insurance that covers their liability in the event of a claim for damages to their unit, as well as the cost of a deductible or the risk of being sued by other owners if they cause a claim.*

What can your strata do to limit the risk?

Strata councils:

1. Be aware that being able to demonstrate long-term stability and a proactive approach to building maintenance will put your building in the best light and the best position for risk assessment. In these current market conditions, switching insurance brokerages or insurers may not be in your strata’s long-term best interests.
2. Review your strata’s depreciation report to ensure your strata is meeting regulatory requirements, and that the report’s recommendations are reflected in the building’s maintenance and repair plan for items that pose a risk such as roofing, water lines, and drainage systems.
3. If the strata corporation is faced with a change in insurance, dramatic increases in cost and deductibles, or the possibility of no coverage, *immediately give notice to all owners regarding the changes*. Early disclosure will help owners understand the situation, work together toward a solution. Provide the new summary of insurance as soon as it has been renewed so that owners can amend their unit coverage accordingly in a timely manner.
4. If your building fails to obtain insurance, contact a lawyer to identify determine the potential liabilities and risks for owners and council members and what next steps you should consider.
5. Repair access or building issues that may risk an injury. Address broken sidewalks, or security issues.
6. Work with owners to manage risks:

- a) Ensure that all owners have access to the water shut-off to their units so they can quickly shut the water off themselves in the event of a leak.
 - b) Verify that all units with washing machines have upgraded their hoses to braided steel. Failed rubber hoses in cramped closets and spaces are a chronic cause of water damages.
 - c) Remind owners that thanks to the soft water in the Lower Mainland they can reduce the amount of soap they use in dishwashers or washers. For later model appliances, use the high-efficiency soap that is recommended. Excess soap suds can build up and temporarily block pipes.
 - d) Owner activities, such as smoking, barbeques on balconies, balcony gas heaters, in-suite hot water tanks, and storage of flammable materials increase the risk of a fire or flood.
7. Update your bylaws: Bylaws that present a risk of human rights complaints also increase your risk. Comply with the *Strata Property Act* and enforce your bylaws. Failure to properly enforce bylaws or comply with any enactments of law can result in claims with the Civil Resolution Tribunal, the B.C. Supreme Court, or the B.C. Human Rights Tribunal. All of these increase your risk and ultimately the cost. Past decisions relating to stratas are available online (see links below.)

All owners:

1. The strata council and all owners should work closely with your insurance broker. Brokers are working tirelessly to place coverage for all strata corporations, but in some circumstances because of values and claims history, there may also be a limit to coverage. Invite your insurance broker to attend your annual general meeting to explain the changes to the building's insurance.
2. *It is imperative that you as a unit owner have proper condo insurance for your unit.* Your strata corporation is required to provide all owners with details of all building insurance policies and warranties in effect. Be sure you understand your strata building's coverage, limits, and deductibles, and how the strata council and/or your strata bylaws may apportion or assign responsibility for deductible or under-the-deductible losses. Relay those conditions to your insurance broker, who will explain your coverages and options.

Further resources

Condominium Home Owners Association of BC

<https://www.choa.bc.ca/>

Click on "Search CHOA's 1000+ Resources and use keyword "insurance"

B.C. Housing Policy Branch Guide to Strata Housing

<https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing>

Click on "Operating a Strata", "Finances and Insurance"

Civil Resolution Tribunal

<https://civilresolutionbc.ca/>

Click on Resources > Decisions

B.C. Human Rights Tribunal

<http://www.bchrt.bc.ca/>

Rebound

<https://www.bcbroker.ca/rebound/>

Click on "Strata"

Insurance Bureau of Canada

Industry Facts Book 2019

http://assets.ibc.ca/Documents/Facts%20Book/Facts_Book/2019/IBC-2019-Facts.pdf

Condominium or Strata Coverage

<http://www.ibc.ca/bc/home/types-of-coverage/condominium-or-strata-coverage/>

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