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Canada's condo insurance crisis

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A flood in Fort McMurray this past spring costing $100 million in damages. A June hailstorm in Calgary, now ranking as the fourth largest claim in Canadian history at $1.2 billion. These are just two examples of recent catastrophic losses impacting insurance across the country and contributing to a hard market, where premiums are increasing and capacity for many types of insurance are decreasing.

As impacts trickle into condominium corporations, a recent seminar called "The Condo Insurance Crisis: Where do we go from here?" addressed concerns and solutions from industry members across the country. The panel talk took place at CAI Canada's V-CON (DO) virtual condo conference that brought together board directors, property managers and various professionals across Canada.

One concern is reduced capacity. "This means while some insurance companies are still willing to insure condominiums, they're reducing how much they write of it," said Tom Gallinger, vice-president of Atrens-Counsel Insurance Brokers. "They feel it's a risky area to insure at the pricing levels they're at. . . they want to reduce their exposure to those big losses that could occur."

Companies are also being more selective, insuring specific condos and shying away from others that have claims or other "undesirable factors," such as the age of the building, wiring, piping, plumbing or even geographical conditions.

"Some companies have chosen to exit the marketplace all together," noted Gallinger. No matter what prices they charge, they assume certain conditions will impede their ability to make money." Those left in the marketplace are raising their premiums and deductibles quite significantly in certain cases.

Boards and managers are also facing budgeting issues, unable to anticipate what premiums and deductibles will be the following year. Finding the right coverage is also harrowing for many corporations and unit owners. There is less availability of ACT-compliant insurance; legislation in the Condo Act requires a corporation to carry an insurance policy, but it doesn't tell the insurance companies they must insure the policy.

"We are seeing corporations trying to pass some of the insurance responsibility onto unit owners," said Gallinger. "And also with higher deductibles—we are seeing corporations with the ability to charge those deductibles back to owners."

Insurance outlook from Ontario

In Ontario, there are numerous unit owner-driven claims related to items, such as an overflowing bathtub or a neglected toilet seal.

"That's one of the things that has consistently caused these attritional losses, which have basically caused an impact to the amount of money those insurance companies have in the pot for condominium claims to be paid out," said Gallinger. "We have also seen some impact from workmanship claims."

Concerns are mounting for the quality of buildings being constructed in the Greater Toronto Area and possible issues in the early stages of condo development coupled with the aging infrastructure of existing buildings.

Proactive maintenance of the physical structure itself is impacting the market, but it's an issue that might escape a corporation's control. Many buildings in downtown Toronto operate above aging water main infrastructure, which was not designed for the modern era.

"We saw a very large water main burst claim cause over $3 million worth of damage to a condo corporation, but also a number of surrounding businesses in Toronto were impacted by that," Gallinger said. "That is something that is really leading to insurance companies to drive up their pricing—understanding this infrastructure is only going to be getting older."

For corporations in Ontario who feel far removed from rough weather events in Alberta and B.C., Gallinger suggests they "take heed." Natural catastrophe claims in Ontario have increased: wind storms in May of 2018 caused "significant damage" for his clients, all the way from Windsor to Ottawa. "We're seeing this stuff happen more frequently than we have in the past and that's causing some impact."

Solutions

What can condominiums do to cope? Gallinger suggests passing a standard unit bylaw and removing some high-exposure areas of the corporation, such as flooring, which is known to greatly contribute to attritional losses. Another opportunity, for now, is passing an insurance deductible bylaw to eliminate that need to prove negligence—potentially saving unrecoverable costs that would have to spring from common expenses.

Getting a regular replacement cost appraisal keeps your value accurate, he said. Without one, insurance companies will inflate the value over time and you're going to be over-insuring your property and paying too much. Another important aspect is claims management and attending to losses early on.

"Before a claim even happens, have an action plan with individuals on site, whether it be concierge, security staff or building management staff, of how you're going to handle that situation," he said. "Most corporations have a fire plan. . . not all corporations have a water damage plan."

Corporations should also be thinking about claim retention and claim prevention. "The rule of thumb in this marketplace is three times your deductible is probably a good time to consider talking to your broker about whether to put through that property claim." Preventive maintenance is also key; paying for repairs and renovations now will bring less challenges in the future.

"Unlike a liability incident that may occur at your corporation or a lawsuit, a property damage claim does not have to be submitted to your insurance, he added. "So, you can always talk to your broker about that, provided you speak with an independent broker that represents multiple insurance companies and make sure it is the right decision based on your corporation's history, the nature of the loss and any other factors."

Outlook from B.C.

In B.C., strata corporations are required to repair and maintain the common elements by law. But Lawyer Philip Dougan of Citadel Law Corporation knows of many cases where the repair bill has been so high that corporations voted to sell their property for redevelopment, rather than repair the damage.

"If a strata is not taking care of its repair and maintenance obligations very strictly, then that will start pushing over into the insurance world because if you don't repair the leaky roof, well then, the leaky roof will cause problems within the strata itself," he said.

In B.C, stratas must also insure original unit fixtures, but depending on particular claims, they aren't necessarily responsible to replace these items.

The tensions arise in stratas when determining who is responsible for any particular loss, said Dougan. Individual strata owners are not required to have their own insurance, and there have been confrontations over who is responsible for the deductible.

He finds the lack of follow-through for mandatory repairs problematic as people are looking to their insurance as a “fail-safe.” This is driving costs up for insurers who must create higher premiums and deductibles.

Solutions

Stricter enforcement to obtain and fund depreciation reports (reserve fund studies in Ontario) is key. In B.C., these reports are mandatory in the Strata Property Act, but stratas can opt out of them, unlike in Ontario where condo corporations must complete and fund such reports. Having one would “even out the savings process so that the repairs are getting done in a reasonable time and pace,” without a huge expense all at once, proactively reducing the risk for flood or fires.

Another solution is to pass new bylaws forcing owners to become their own risk managers. “We have been advising clients to require their owners to get their own unit insurance,” said Dougan. “We think it’s simply in the best interest of all owners, and a policy at $300 or $400 a year to cover your potential liability on a deductible of $50,000 or $100,000 is a no-brainer.”

Within these bylaws, owners should be required to replace their old appliances on a regular basis, like an older dishwasher which is culpable of leaking. Every building should also include must-haves, like water level switches and water shut-offs. At least in B.C, 70 per cent of claims are flood related.

“The math is very simple, if you stop having claims, eventually the premiums and deductibles will at least stay still, if not potentially go down.”

Strata corporations already have a right to enter and inspect a unit. He suggests expanding that current standard bylaw to allow professionals retained by the corporation, like a plumber, to enter and inspect hoses, appliances, plumbing and fire detection systems for example. Another suggestion is to allow insurers to dictate requirements for the stratas—for instance, ensuring stratas adhere to the depreciation report if they want coverage. “Insurers themselves can also start looking at these ideas for bylaws and enforcement and saying those are the kind of bylaws we want you to have,” he said, stressing the significance of this in B.C.

He recalls a 50-unit building he recently worked with. “Their last year’s insurance premiums were $40,000,” he said. “This year’s was for $102,000—for exactly the same coverage.”

Outlook from Alberta

Weather has been a key impact to the insurance market in Alberta, which remains the top area in Canada with the most claims. As Tony Reed, vice-president, client executive at BFL Canada Insurance Services, put it, “you can experience all four seasons in one day.”

“Hail out in Alberta will come in for about 10 minutes and cause hundreds of millions of dollars in damage to units,” he said, pointing to the recent storm in June.

Solutions

The province recently ushered in changes to its Condo Act in January 2020. Parts of that legislation are expected to deeply impact the current insurance market. For instance, when damage occurs in an owner’s unit, a condominium corporation can now chargeback the deductible up to a maximum of $50,000.

“The majority of claims in Alberta are due to weather changes: when it goes from minus 20 to plus 20, people want to open their windows to cool the apartments down and this causes freezing,” added Reed. “It’s amazing when you put a bit of financial responsibility onto the individual with the $50,000 deductible or $25,000 deductible—now they remember to keep those windows closed.”

New rules also make corporations responsible for overseeing repairs to units where losses have occurred, making sure proper restoration professionals are hired and a certification of insurance is in place so work is being done properly. A new bylaw under the Act also states a corporation may demand that unit owners carry coverage. In addition, one of the largest problems he tends to see are old bylaws, but now new regulations supersede them. Where in the past a corporation could charge back the deductible as long as negligence was proven, now at least, corporations can “recoup some of these deductibles.”

A new bylaw requirement called the standard insurable unit description is a way for boards in Alberta to clearly define what is covered under the corporation’s insurance and what a unit owner is responsible for.

“What this has done is clearly define what an improvement and betterment is, allowing unit owners to make sure they purchase the proper insurance.”

The new Act also allows the board to oversee the hiring of the proper trades so repairs can be done efficiently. When there is a claim, and an insurance company is paying for a new roof or siding for instance, Reed suggests corporations take the opportunity to look for potential upgrades—better shingles or other products that are more resilient to rough weather. Of Ontario, he says, “if there are some water issues or flooding, look into moving HVAC equipment to the roof or installing a sump pump in the elevator shaft.”