

## Condo Smarts September 4, 2019

### Who Pays Insurance Deductibles

**Dear Tony:** Our strata corporation is an older wood frame condo. In the past 3 years we have experienced a number of water claims on our insurance. Two claims this year were failures of pipes, and last year leaks were owner caused as a result of home repairs to a sink, overflowing bath tub and a self installed dishwasher. When our insurance renewed in July our premium increased by 55% and our deductible which was \$10,000 has increased to \$100,000! While we managed to recover the deductible cost from the owner caused claims, the accumulated effect has depleted our contingency funds. We have no idea how we will pay for another claim should one arise or if we could ever collect the deductible from an owner if they caused a claim. Our broker has been incredibly helpful in advising us, but the risk of another claim has everyone terrified and an owner recently lost a sale when the buyers discovered the amount of the deductible. Is it possible to demand owners obtain home owner insurance that covers a \$100,000 claim? Trudy W.

**Dear Trudy:** Dramatic increases in insurance cost and increased deductibles are common in our current insurance market. There are a limited number of insurance companies who insure strata corporations and they are only prepared to assume a certain level of risk before the insurance product is no longer profitable and places everyone at an unmanageable risk. When your broker goes to the market, they act on your behalf and place your profile and risks with the insurance companies. The cost of the policy, deductibles and exemptions are imposed by the insurer. As buildings age, an insurance deductible of \$100,000 is much more likely if your community has frequent claims, has not been renewing aging building systems or permitting activities that increase the risk. While it is not an overnight solution, communicate with your broker and determine what steps can be taken to reduce risk. Major building upgrades such as roofing replacement, building envelope upgrades and mechanical upgrades such as new piping will greatly reduce your risks. Likewise, permitted activities may also contribute to higher risks, such as, barbeques on balconies and gas patio heaters. In addition to the increase of deductibles and costs of policies you may also see an increase in the number of exemptions or exclusions in your policy. Buildings with a reported envelope failure may still obtain insurance; however, it is unlikely any envelope failure water claims will be covered.

Under the Strata Property Act, the strata corporation must insure for the assets of the strata corporation and fixtures built by the owner developer. Other than a Bareland strata where the homes on each lot are the insurance responsibility of each owner, the strata corporation must have insurance for the building structure and systems including the attached finishing (fixtures) when the building is complete. There is no requirement for owners to insure their personal property, improvements to a strata lot or personal risks. Even if an owner does purchase home owner or landlord insurance, there are limits to the amount of a deductible that may be paid on homeowner policies. These often limit out at \$25,000. While higher amounts may be available, the cost increases comparatively and most owners refuse to pay the cost. Whenever there is a claim on a strata corporation policy, the deductible amount is a common expense of the strata corporation. When this occurs, it is up to the council to determine how they will pay for or recover that amount on behalf of the strata. If an owner is responsible for the claim, and the owner or their insurer voluntarily agrees to pay for the deductible amount, the claim and repairs proceed. If the amount is a result of a common claim where no owner is responsible the strata corporation has two options to pay for the deductible. They may pay the amount from the contingency or operating funds if available, or the strata council, without requiring a special general meeting, may approve a special levy for the amount where every owner pays their share based on unit entitlement. The same formula used to calculate strata fees. In your strata corporation of 55 units, a \$100,000 deductible will end up costing everyone between \$1,820 and \$2,300 based on unit size. This is at

least manageable for owners without depleting the reserves and it permits each owner the opportunity to file a claim for their share of the deductible on their home owner insurance to pay the smaller amount. If an owner is responsible for the claim and they do not have insurance, cannot afford to pay the amount, or refuse to pay the amount, the strata corporation may file a claim with the Civil Resolution Tribunal to obtain a judgment for the amount. Remember the deductible on a strata policy is a common expense first and must be paid by the corporation. If your corporation does not have sufficient funds to pay the deductible, even though an owner may be responsible, you may have to impose a levy on the owners until the amount is collected, otherwise, the repairs and restoration may not commence.

There is one other negative impact of high deductibles. The strata insurance only covers damages to a strata lot if a claim is filed and the amount is above the deductible. For example, if several units are damaged and the claim total is only \$75,000 against a \$100,000 deductible, each strata lot owner will be responsible for the repairs to their owner units. I highly recommend all owners, landlords and tenants purchase insurance for their strata lot/condo. Bring a copy of your current strata policy to your broker to determine your risks such as deductible amounts, exemptions, and what insurance is available. The strata corporation does not insure your personal property, your personal liability, your betterments or personal appliances that are not attached to the strata lot. If you are required to move out of your unit while repairs are underway, confirm you have allowances for living expenses. During construction you still pay for your strata fees, your mortgage and taxes.

Tony Gioventu, Executive Director CHOA

Sign up now for Spring Seminars in your area. Topics this spring will highlight Insurance, Above and Below the Deductible, Creating an Operations Plan for Maintenance, Renewals, & Annual Budgeting, and Bullying and Harassment in your strata and the workplace. Go to:

<http://www.choa.bc.ca/seminars/>