# CONDOMINIUM INSURANCE – PRUDENT SENIORS DICTATE

Insurance companies started the slogan, "Freedom 55", but few people will ever achieve it. Legislative changes prohibiting mandatory retirement at age 65 have allowed us to recalibrate and now aim for "Freedom 75". More and more people, even though they are financially set, are choosing to work way beyond age 65. I know some who are working well into their 80's and who still climb the stairs two at a time.

With this changing trend, the market is cleverly responding with all sorts of products and services to take the enormous amount of loose change from the seniors' pockets. For those without a lot of spare cash and who painstakingly worked to pay off their mortgages, there's now the "reverse mortgage" with the jingle, "Wouldn't it be nice"!

The condominium market has been burgeoning for years and there are many new developments catering especially to seniors. With them, our demographics are producing condominium boards populated by seniors, the majority of whom bring a lot of business experience and more importantly, the four cardinal virtues – Temperance, Fortitude, Prudence and Justice. I need not dilate on them.

After 33 years managing condominiums – townhouses, conversions, hi-rises with multi towers and elaborate recreation facilities, industrial, office, mixed use, vacant land and freeholds – I retired from it. I did notice the emerging trend toward the dominance of senior governance quite some time ago. It was always those seniors who kept me on my toes with two key characteristics – prudence and diligence.

For today's condominium and strata property managers, be aware that there is a rapidly increasing cadre of senior board members who live by those four cardinal virtues and who have a great deal of spare time. If you're lucky enough to be taken under the wing by one of them, count your blessings.

The big benefit for condominium corporations is with this progressive focus on prudence and due diligence, younger property managers are likely to encounter many board members who can "out-expert" them on virtually everything – Roberts Rules of Order, personnel management, budgets, roofing, HVAC, landscaping and even property management itself.

Many seniors know their Declarations, By-laws, Rules and Regulations cold, because they've read and pondered them. While the average property manager has from 8-10 sets of governance documents to administer, the prudent and diligent senior board member has and knows only one – usually inside out.

As senior board members exert more and more prudence and diligence in the governance of their condominium corporations, property managers and the whole host of enterprises serving the condominium market will be forced to fall in line. One subject that receives annual attention is the corporation's insurance policies. Another that is monitored on a hit and miss basis, and which will come under ever increasingly closer scrutiny is ensuring that contractors and trades working in and around the condominium community have adequate liability insurance and certificates of good standing with the Workplace Safety and Insurance Board in Ontario (formerly the Workman's Compensation Board). A counterpart to this body exists in pretty well every province in Canada. Good managers know that they should get these certificates annually from their contractors, but the exercise often gets put on the back burner.

Beyond that, the new breed of senior board members will be demanding copies of the property management company's certificate of insurance for errors and omissions and the same from their reserve fund planners. But these are topics for other articles.

Let's take one insurance subject – property insurance – and examine it. There are four types of insurance for condominium or strata corporations: (1) property, which covers the building structures, improvements and assets of the corporation, (2) liability, (3) boiler and machinery (B & M), if there is common area machinery, and directors and officers (D & O). Each one warrants an article in itself, but because the largest premiums are paid out for the property portion of the insurance policy, it's the best one to look at first.

Fortunately in Ontario, there isn't a large claims loss history with condominium property policies and nothing that really would grab headlines. In fact, if you *Google* the internet for condominium property insurance or condominium insurance (Canada), you won't find out much in the first several pages because they are full of web sites from brokers and agents selling "unit owner" packages.

In Ontario, the basics of what is required under the Condominium Act, SO 1998, Chapter 19 on property insurance appears below (right from the Act).

***Insurance***

*Property insurance*

***99. (1) The corporation shall obtain and maintain insurance, on its own behalf and on behalf of the owners, for damage to the units and common elements that is caused by major perils or the other perils that the declaration or the by-laws specify. 1998, c. 19, s. 99 (1).***

***(2) In subsection (1),***

***"major perils" means the perils of fire, lightning, smoke, windstorm, hail, explosion, water escape, strikes, riots or civil commotion, impact by aircraft or vehicles, vandalism or malicious acts. 1998, c. 19, s. 99 (2).***

*Improvements not included*

***(4) The obligation to insure under subsection (1) does not include insurance for damage to improvements made to a unit. 1998, c. 19, s. 99 (4).***

*Amount of recovery*

***(7) Subject to a reasonable deductible, the insurance required under this section shall cover the replacement cost of the property damaged by the perils to which the insurance applies. 1998, c. 19, s. 99 (7).***

*Other insurance*

***102. The corporation shall obtain and maintain,***

***(a) insurance against its liability resulting from a breach of duty as occupier of the common elements or land that the corporation holds as an asset; and***

***(b) insurance against its liability arising from the ownership, use or operation, by or on its behalf, of boilers, machinery, pressure vessels and motor vehicles. 1998, c. 19, s. 102.***

The first thing to know is that the corporation must have insurance for damage to the units and common elements caused by major perils or the other perils that the declaration or the by-laws specify. The Act then lists what are viewed to be "major perils". In the property insurance industry, there are two types of coverage – (1) *named perils*, in which each and every peril is listed and only they are covered, and (2) *all risks*, in which everything is covered except what is specifically listed in the *"exclusions"* section. Standard exclusions include *Acts of God, Riot, War, Earthquakes and Floods* (in certain high risk zones). You can get the coverage for some typical exclusions, but usually have to pay extremely high premiums for them.

The second thing to know is that corporations must insure their units and common elements for *replacement cost.* Many Declarations even add the adjective "full" to "replacement cost". Now full replacement cost doesn't just include the labour and materials for replacing whatever has been destroyed. It also includes all applicable taxes, and disposal and, in some cases, demolition costs related to the restoration. A good insurance appraiser knows these costs, which are indexed to your postal code. Costs vary across the country, within each province and they even vary between such places as Oakville and Hamilton Mountain. This shouldn't be a concern unless, of course, one is vastly under insured. If that's the case, then your corporation runs the risk of being assessed the lion's share of the difference between what your insured value should be vs. what you have listed. This would be a horribly crippling financial blow in addition to the personal tragedies that would likely result from a catastrophic loss to the corporation. That's where an insurance appraisal comes into play.

**The Insurance Appraisal**

An insurance appraisal is a replacement cost analysis providing an accurate estimate of the insurance amount required to replace each structure and/or amenity, exactly as it stands on the day the report was prepared.

Most Declarations require that the corporation regularly have an appraisal done by a qualified and independent appraiser in order to determine the full replacement cost. Yet not all corporations follow this specific directive in their own governance documentation.

A professional appraisal calculates the building's reproduction cost on a component by component basis, using a combination of specialized software and various cost data specific to your area. It involves a comprehensive inspection to obtain field measurements and finishes. Gone are the days of "drive by" appraisals. Today they are quite complicated when done diligently.

**Why Obtain an Insurance Appraisal?**

Quite apart from complying with the corporation's own Declaration, there are several other reasons to obtain an insurance appraisal. The first is that it demonstrates due diligence on the part of the board members, property manager and/or the insurance agent. You have the peace of mind of knowing that the corporation is properly appraised. Second, it assists your agent in placing the proper coverage with a carrier, by providing documentation that underwriters need.

Third, it prevents under-insuring, which puts the corporation at risk of not having funds to rebuild in the event of a catastrophic loss, or over-insuring, which results in needlessly paying extra premiums.

Finally, it provides a third party with an unbiased evaluation of the property's replacement cost. If a loss occurs, an appraisal, together with all data acquired during the appraisal, will be available to the corporation and insurer.

Recently, the cost of certain materials has increased dramatically. Stainless steel and other metals, as well as many products that are petroleum based, have been subject to very large inflationary pressure.

For a building, the Consumer Price Index should not be applied to the annual insurance premiums. This process is known as "trending up" and is not reliable at all. Buildings do not buy the items that make up the typical "bundle of goods" used to determine the CPI. The same principles apply to the inflation factor used in calculating your reserve fund requirements by your reserve fund planner.

Only a qualified and trained appraiser, who stays abreast of these changing material and labour costs, can ensure that your condominium or Strata Corporation's building and amenities are properly valued for their replacement cost in today's dollars.

More and more diligent property managers and boards are calling for independent insurance appraisals on a regular basis in all likelihood due to the growing numbers of seniors populating condominium and strata boards. They're reading their Declarations and seeing the section that calls for appraisals by independent and qualified appraisers.

As a former condominium manager, I was guilty of "trending up" for years, until I was called to task by a senior board member who knew the dangers inherent in that process. "An insurance appraisal", he told me, "is much like zero based budgeting. You have to start fresh from the ground up, each time".

Being truly diligent is being prudent and I was fortunate to have this "old dog" take me under his wing and teach me this valuable lesson. He embodied those four cardinal virtues - Temperance, Fortitude, Prudence and Justice. I wish that for every young property manager looking after condominiums or strata corporations today – to find such a mentor.

***John J. Molnar, BA, FRI, CPM®, CRP,***
***President of JJ Molnar Realty Advisors Inc. in Hamilton,***
***performs condominium reserve fund studies and***
***insurance appraisals in the Golden Horseshoe area***