

March 25, 2020



UPDATE ON INSURANCE POLICY

FOR THE FIRST TIME IN OVER A DECADE, THE WORLD HEALTH ORGANIZATION HAS DECLARED A PANDEMIC. WITH THE ARRIVAL OF THE CORONAVIRUS, GOVERNMENTS ARE ASKING PEOPLE TO STAY HOME, AS MUCH AS POSSIBLE. FOR THOSE CANADIANS WHO HAVE RECENTLY TRAVELED, HEALTH CANADA IS ASKING THEY SELF-ISOLATE FOR 14 DAYS, REGARDLESS OF WHETHER YOU ARE SHOWING SYMPTOMS OR NOT.

LIVING IN OR MANAGING A CONDOMINIUM, STRATA OR APARTMENT BUILDING?

This brings the Coronavirus (COVID-19) right to your doorstep. With this in mind, this document was prepared to provide general guidance as to the potential coverage that may be available, however, we encourage policyholders to review the nature and scope of coverage afforded by their own specific insurance policy.

Have you reviewed the terms and conditions of your insurance policy?

While BFL CANADA has set out some general guidelines for clients to better understand the coverage each policy is likely to provide, we encourage policyholders to review the specific terms and conditions of your insurance policies with assistance from your BFL CANADA service team where needed. Each and every reported claim will be reviewed based on the specific set of circumstances and policy coverage that may apply.



PROPERTY

In these early days, the main concern we have heard from property owners and managers is, what happens to loss of rent due to tenants affected by the economic fall out of the Novel Coronavirus?

Under the Strata Protect and Condo Protect Programs, loss of rent is not provided for unit owners. This is a coverage that unit owners have always been encouraged to purchase as part of their personal insurance policies.

For Condominium and Strata Corporations, as well as for Apartment owners, you may have purchased Gross Rentals coverage. Generally, for this coverage to be triggered insured property needs to suffer destruction or damage as a result of an insured peril. In most cases, the fallout of the economic impact on tenants, would not be an insurable peril.



COMMERCIAL GENERAL LIABILITY (CGL)

Commercial General Liability policies insure policyholders for their legal liability towards third parties for bodily injury, personal injury and property damage arising from its operations, products or premises.

The spread of the Novel Coronavirus may expose various Condominium, Strata Corporations and Building Owners to claims from third parties alleging they were negligent in managing the virus outbreak and that their negligence, resulted in bodily injury or damages to third parties.

The CGL insurance provides coverage for legal costs associated with defending such claims as well as coverage for any financial liability for certain damages that could be awarded against the insured corporation.



DIRECTORS AND OFFICERS (D&O) LIABILITY

As directors and officers of a Condominium or Strata Corporation, you are responsible for the representations and disclosures made to your unit owners, whether they are financial, operations, strategic or social. This includes how you handle crisis. Unit owners, tenants, employees, vendors and guests can point to your alleged negligence, omissions and misstatements in handling the Coronavirus pandemic, should there be a sentiment that your actions were inadequate. This is where your D&O Liability policy is most likely to come into play in some capacity.

Potential and most likely coverage scenarios include:

- Lawsuits from contractors alleging that your failure to adopt and enforce timely and appropriate internal Coronavirus propagation prevention controls resulted in their employees being infected with the virus and shutting down operations.
- Employee wrongful termination or work suspension lawsuits following your decision to suspend/reduce work due to Coronavirus concerns.
- In the aftermath of the pandemic, health authorities conduct inquiries and investigate corporations and their management team and potentially levy crisis mismanagement sanctions.

Questions? BFL CANADA's Real Estate team is always here to offer guidance, please contact us: bflrealestate.ca

