INSURANCE

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January 19, 2020

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1.877.353.2462

Homeowner & Landlord Insurance Policies for strata properties in British Columbia

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We gratefully acknowledge the support of BC Housing as part of the Building Excellence Research & Education Grants Program

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Participants seeking legal advice pertaining to any specific matter, circumstances or fact pattern then such party must enter into a solicitor/client relationship for such purpose.

Participants are requested to respect the privacy of those persons attending and participating in the seminars.

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The Basics: What does the strata corporation policy cover?

- The Strata Corporation Policy: Required by the Strata Property Act
- All common property, common assets, original fixtures installed by the owner developer must be maintained for full replacement value, for specified of perils.
- The strata corporation must carry general liability to a minimum value of $2 million

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Insurance Coverage

- What does the Strata Insurance Cover?
  - The common property
  - Common assets
  - Including any furnishings, equipment or other items owner by the strata corporation
  - Buildings shown on the strata plan
  - Fixtures built or installed by the owner developer.

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- What are fixtures?
  - "items attached to a building, including floor and wall coverings, and electrical and plumbing fixtures, but does not include, if they can be removed without damage to the building, refrigerators, stoves, dishwashers, microwaves, washers, dryers or other items"
  - In summary: except for appliances, the structure and finishing's of a building completed by the developer.

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- What is mandatory?
  - The strata corporation must obtain property insurance that covers the major perils that are fire, smoke, windstorm, hail, explosion, water escape, lightning strikes, riots or civil commotion, impact by aircraft and vehicles, vandalism and malicious acts.

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Insurance Coverage

- What does the Strata Insurance not Cover?
  - Betterments and alterations to a strata lot made by an owner
  - Buildings on strata lots in a bare land strata not shown on a strata plan, unless the strata corporation has adopted a bylaw creating an insurable interest

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What does home owner insurance cover?

– The Strata Lot Owner's Policy

It is the responsibility of an owner to insure their personal property, betterments to the strata lot, liability and personal risks, including coverage for a strata corporation deductible or an amount lower than the deductible, in the event the tenant/owner is responsible for a claim, or living out allowances. The Strata Property Act does not require mandatory insurance for Strata lot owners.

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Home Owner Risks

- It is important as part of the report on insurance, that owners understand they are/may be responsible for:
  - Personal property
  - Personal liability
  - Betterments to a strata lot
  - Buildings on a strata lot not shown on a strata plan commonly found in a bare land strata
  - Damages to a strata lot that may not be covered by an insurance policy
  - An insurance deductible relating to a claim originating from their strata lot, as a result of their actions, or as deemed by an enforceable bylaw

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Bare Land Strata Corporations

- It is important as part of the report on insurance, that bare land owners understand they are/may be responsible for:
  - Personal property
  - Personal liability
  - Buildings on a bare land strata lot not shown on a strata plan including any betterments and improvements by a developer
  - Damages to a strata lot that may not be covered by an insurance policy
  - The liability of damages to other strata lots or property that may have originated from your strata lot

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Landlord Policy

- The Landlord Policy
  - Investment coverage to protect lost revenues, liabilities of tenants, and living out cost allowances in the event the strata lot is not habitable.
  - As a landlord/strata lot owner you are ultimately liable for claims against your strata lot that may result from the actions or activities of your tenants such as:

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Landlord Policy

- The Landlord Policy
  - In the event of a claim caused by the tenant resulting in damages or an insurance deductible claim, the strata lot owner is responsible.
  - As a landlord/strata lot owner you may ultimately be liable for claims against your strata lot that may result from the actions or activities of your tenants such as:
    - Damages
    - Insurance deductibles resulting from a claim where the occupant/landlord is responsible
    - Costs associated with your tenant in relation to a claim
    - Third party liability from other owners

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Landlord Policy

- The Landlord Policy
  - General liability coverage is recommended to protect the landlord from 3rd party actions in the event of a claim caused by their tenants/occupants.

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What are the types of claims I should verify coverage for?

- Damage to the strata lot for claims that are below the deductible of the strata corporation: these claims are not generally covered by the strata corporation and fall under the responsibility of an owner in the bylaws to maintain and repair a strata lot.
- General Liability for injury, claims or damages from third parties
- Living out allowances and expenses
- Betterments and alterations
- Sewer back up including coverage for betterments such as hard wood flooring

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My toilet tank in unit 301 broke when I was away and caused damages to 3 strata lots and $75,000 damages?

- Scenario A
- What is the deductible of the strata corporation?
- Example: $50,000 deductible, a claim is filed on the strata policy
- The strata deductible is a common expense
- The strata corporation determines if the owner is responsible for the claim and may commence an action to recover the deductible from unit 301
- As an owner, did I purchase sufficient insurance to cover the risk of paying for this deductible?

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My toilet tank in unit 301 broke when I was away and caused damages to 3 strata lots and $75,000 damages?

- Scenario B
- What is the deductible of the strata corporation?
- Example: $100,000 deductible, a claim is not filed
- Owners are each responsible for the damages to their units and claims through their homeowner insurance policy
- As an owner, did I purchase sufficient insurance to cover the risk of paying for damages in the event the amount is not covered by the strata corporation policy?
- Do I have sufficient liability coverage to act if I am sued by the affected other strata lots?

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Who pays the deductible?

- The event (flood) occurs
- The strata corporation immediately act to mitigate the loss, stop the flood source and commence emergency restoration (drying etc). Your building should have contact numbers easily assessable for plumbers, emergency contractors etc.
- The first call: The insurance broker who can take an incident report and help obtain an estimate from the emergency contractor for the emergency cost + final repair.
- After reviewing the deductibles and the estimated cost of repair, make an informed decision on whether to proceed with filing an insurance claim or not. Many factors should be considered.
- If proceeding with a claim instruct your broker to proceed with filing the claim with insurers and having an adjuster assigned. The adjuster will help with obtaining bids for final repairs from the one or potentially more restorations firms.
- The claim: the strata corporation determines who was responsible for the loss.

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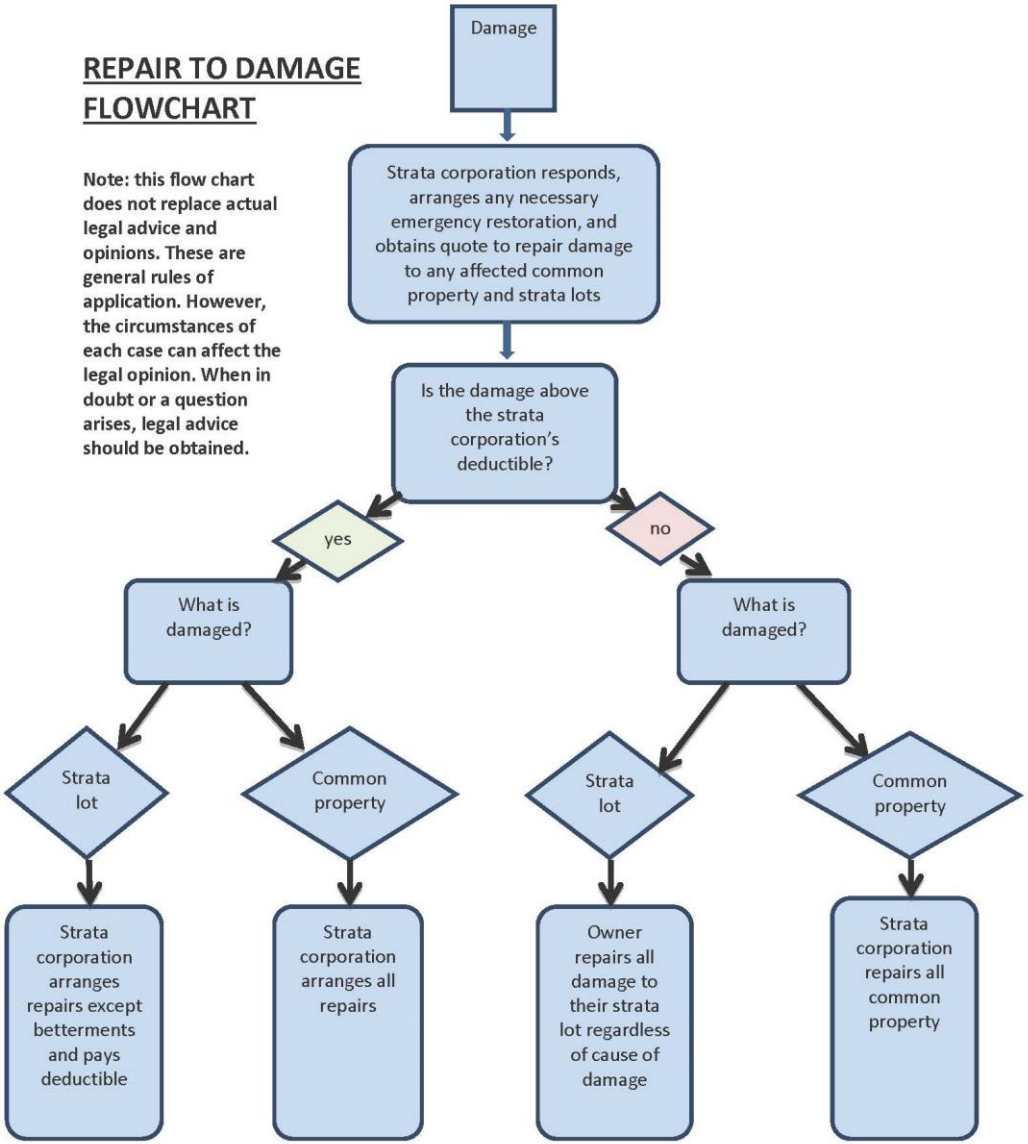
REPAIR TO DAMAGE FLOWCHART

Note: this flow chart does not replace actual legal advice and opinions. These are general rules of application. However, the circumstances of each case can affect the legal opinion. When in doubt or a question arises, legal advice should be obtained.



NOTES: Strata corporation may be able to charge back the deductible or damage below the deductible if there is a valid chargeback bylaw and the threshold set out in the bylaw is met (i.e. negligence or responsibility). If there is no chargeback bylaw, the strata corporation may be able to sue the owner for the deductible under s. 158(2), but not the damage below the deductible. Where damage is below the deductible, the "innocent" owner may sue for reimbursement of strata lot repairs if the damage was caused by the negligence of the strata corporation or the negligence of an other owner. The above chart is courtesy of Clark Wilson LLP (www.cwilson.com)

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- Who pays the deductible? This is determined by who's insurance policy pays the claim.

If the claim is covered on the strata corporation policy, how does a strata determine if an owner is responsible for the deductible?

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Who does the home owner policy protect?

- Can my strata council demand proof of my homeowner insurance?
- The strata corporation has no insurable interest in your personal risk or liability.
- The verification of homeowner insurance does not guarantee the insurance is sufficient or that a claim will be filed.
- Whether an owner purchases insurance has no impact on whether a claim proceeds or collection for a deductible if the owner is responsible.

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1. Location or origin of the claim

   Did the event occur/originate within the strata lot?

2. Cause of the claim

   Was there an action or event causing a claim?

3. Bylaws of the corporation

   Do the strata corporation bylaws set any standards or conditions for claims?

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How do bylaws impact collections for damages and insurance deductibles?

Bylaws of the corporation may set a higher standard to establish whether an owner is responsible for a claim. For example, the bylaw may require the strata to prove there was some act of negligence involved, complicating the process of collecting a deductible.

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How do bylaws impact collections for damages and insurance deductibles?

Bylaws relating to insurance should not exceed the test of the Strata Property Act, *" if an owner is responsible"*

Bylaws may also:

Require home owners to maintain insurance for coverage and their obligations for payment in the event they are responsible, or amounts of damages below the deductible.

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Strata Damages/Earthquake Deductible Examples

An owners personal Insurance might also cover an owner's share of a deductible when it's a common expense assessed back based on unit entitlement. There are 2 common examples: 50 unit apartment building,

- Example 1: the deductible is $250,000 for water escape and there has been a fire and flood resulting in $800,000 damages. The strata council have automatically assessed each owner based on unit entitlement for their share of the $250,000 deductible. Your unit share $5,405. Does your homeowner policy cover this share or is it a special levy you will pay directly?
- Example 2: the earthquake deductible is 15% of our replacement value of 22,000,000. The deductible is 3.3 million, your unit share is $66,000. Does your homeowner policy cover this share or is it a special levy you will pay directly?

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Can we purchase homeowner insurance to cover for exemptions or exclusions on the strata policy?

Example: our strata corporation have been advised until our domestic hot and cold water systems and piping have been replaced, related water claims are exclusions for coverage.

Can I purchase homeowner insurance to cover my share of these potential risks or damages in the event of a claim to my unit or a special levy to cover for damages to common property?

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Questions

Thank you for joining our session today.

If your question did not get answered, please email

tony@choa.bc.ca or info@choa.bc.ca

We will be happy to research your question and connect you with the appropriate advisors and resources.

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Thank you

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