

Building and Ordinance Insurance Coverage

By Kenneth Golsan

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It was a financial setback for John's Collision Center, incorporated. John was awakened Friday night by an emergency telephone call urging his immediate attention at the body shop. He arrived to find his business burned halfway to the ground. Fire insurance for John's building was in force, thankfully, for the proper limit. But the story doesn't end there.

His general contractor's bid to demolish the remaining unburned portion of his building and the cost to remove the building debris was the first item on John's blacklist. Second was the arrival of the City Inspector proclaiming John's responsibility to comply with building codes that had been adopted since John's building was erected in 1945; i.e. installing a sprinkler system, or providing an entrance suitable for handicapped customers under the Americans With Disabilities Act.

John's insurance company sent its claim adjuster to the rescue. The adjuster agreed to reconstruct John's building up to the limit of the policy. However, a little exclusion, unbeknownst to John, called "Ordinance or Law" allowed the adjuster to deny paying for additional costs 1) to tear down the undamaged portion of the building; and 2) for debris removal; and 3) for the increased costs of construction associated with any city ordinance, law, or code which John would need to comply with in order to rebuild his collision center.

Real dollars and the financial burden

The above is a story, but very real. One recent fire damage case involving a \$3 million commercial building required roughly \$400,000 in additional costs to rebuild to code and \$60,000 to demolish, remove and dispose of the undamaged portion.

How most businesses are insured

Most businesses purchase a property policy called the "special form." This is, in simple terms, the broadest property policy available, but it too has its exclusions. Such things as property' damage resulting from "earth movement," "nuclear hazard," water; and of course, our topical favorite "ordinance or law." Many business owners do not realize that standard building insurance policies do not cover the consequential loss brought on by zoning laws or

other ordinance affecting repair and reconstruction.

The "ordinance or law" exclusion means that the insurance company will not pay for loss or costs caused by the "enforcement of any ordinance or law: 1) regulating the construction, use or repair of any property; -or 2) enforcement requiring the tearing down of any property, including the cost of removing its debris."

Covering your assets and planning ahead

To handle these consequential, there is an endorsement available to the commercial property policy called, what else, the "building and ordinance coverage" endorsement. This endorsement alters the property policy to cover three separate areas. If the enforcement of any building, zoning, or land use law results in 1) loss to the undamaged portion of the building; 2) demolition and removal costs of undamaged parts of the structure; or 3) any increased costs of repairs or reconstruction, the policy will cover these costs.

Should the undamaged structure require demolition, the asset value of that part of the building has been lost. Part one of the building and ordinance endorsement will indemnify the building owner for that lost value.

How do you set the insurance limit to buy?

For starters, understand that it is practically impossible to purchase or estimate exact to-the-dollar figures. The goal is to get as close as possible. The best idea is to hire certified building engineers who understand construction costs as well as city ordinances. Your City Engineer and qualified staff will also discuss the subject and provide certain ideas. The three questions that need to be asked are: 1) how much would it cost to tear down the undamaged portion of the building; 2) how much would it cost to remove the debris; and 3) what city codes, ordinances or laws would apply to the reconstruction and how much would it cost to comply?

The premium investment

It is difficult to say what the annual premium charge would be for a particular building. Suffice to say

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however, that John's Collision Center would have gladly invested a little extra in their property insurance policy by addition the "building and ordinance coverage" endorsement than to bankroll the demolition, debris removal and increased cost of construction.

Recently, one of our clients purchased the endorsement for an additional \$400 in annual premium. The building is located in the City of Portland, was built in 1942 and has an estimated value of \$325,000 replacement cost. As every

commercial building has its unique characteristics, every city has its special zoning and building codes, and every insurance business has its own individual insurance objectives. In the same manner, the building and ordinance coverage endorsement is individually rated to fit the targeted insurance goal and underwriting exposures.

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