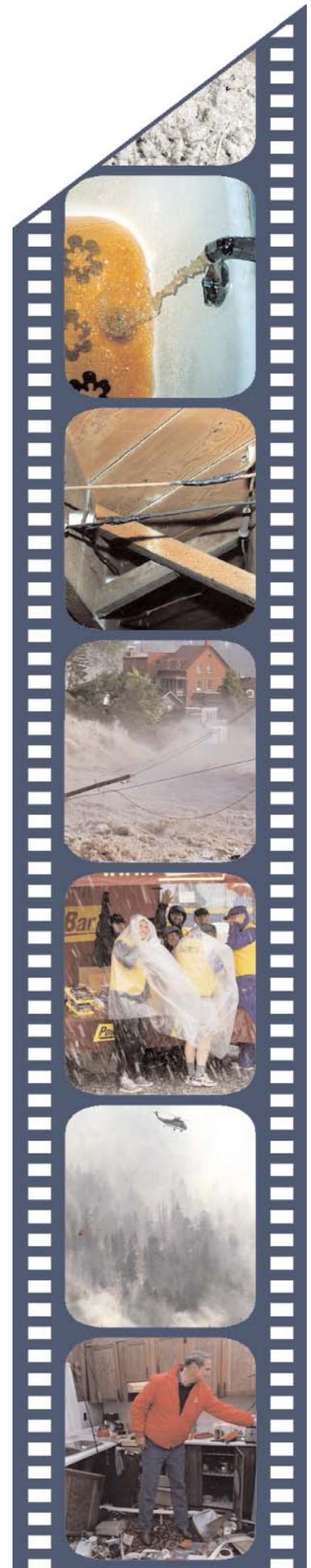


# What REALTORS® should know about property insurance



**CREA**

The Canadian Real Estate Association

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## Definitions to know

Just as real estate has its own technical or operating terms, so does the insurance industry. These are some of the ones you or your client may encounter:

**All risk or "all peril".** The term "all risk" or "all peril" describes insurance for losses due to a wide range of causes. Instead of listing each insured peril, such as fire, lightning and so on, the policy covers all loss or damage to insured property that is the result of any "risk" that is not specifically excluded. "All risks" is a confusing insurance term and does, in fact, incorporate numerous listed exclusions, allowing coverage to be priced more fairly. Perhaps a better description would be "all common risks."

**By-law endorsement.** When construction codes and zoning bylaws change, existing buildings are usually exempted. But when a severely damaged building has to be substantially rebuilt, the entire building may have to comply with current standards. The "by-law" endorsement covers any additional expenses to bring the building up to standards.

**Comprehensive Policy.** The term used to describe a policy providing broad protection. This is sometimes also referred to as "All Risk"

**Coverage limits.** In addition to overall dollar limits for liability, there are sub-limits on the amount that can be claimed for some items. Some items typically subject to coverage limits include negotiable securities, cash, garden tractors, computer software, bicycles, jewelry and gems, watches, or collections (coin, stamp, card, etc.)

**Deductibles.** Most insurance claims are subject to a deductible - the initial amount of every claim that is paid by the policyholder. Deductibles help make insurance more affordable for everyone by eliminating minor "nuisance" claims.

**Direct loss.** The term used to describe the loss or damage of insured property or goods. The term does not include other losses or expenses incurred as an indirect result of the damage, such as having to rent a video camera if one is destroyed by fire shortly before leaving on a trip.

**Discounts.** Some insurers offer discounts or other incentives for policyholders who install smoke alarms, sprinkler systems, and monitored intruder alarms. Some reduce premiums for seniors. Some insurers offer discounts to loyal, long-term policyholders. The insurer may also be willing to offer a discount if they insure both the car and home with them.

**Dwelling.** Your "dwelling" coverage applies to your home and "attached structures" such as a garage or carport. Permanently installed outdoor equipment on the premises, such as a swimming pool and the equipment attached to it, is included. Building materials for use in construction, alteration or repair of the insured dwelling or related structures on the premises are covered as well if they are on the site or adjacent to it.

**Guaranteed replacement cost endorsement.** This endorsement will make up a shortfall in the event that the replacement cost of the home is underestimated.

**Named Peril Coverage.** This is a policy that covers losses that result from causes specifically listed. This is the opposite of an "All Risk" or comprehensive policy.

**Personal liability.** The personal liability portion of home insurance applies at home, or anywhere in the world for bodily injury you may unintentionally inflict on others - often referred to as "third parties" - or to accidental damage you may do to their property.

**Personal property.** A home insurance policy will cover the contents of the home and other personal property that is owned, worn or used (including clothing, cameras, furniture, etc.) while on your premises. It may even cover uninsured personal property of others, excluding roomers or boarders who are not related to you.

**Risk.** Term used to describe a chance event that is unexpected and accidental as far as the policyholder is concerned.

**Subrogation.** The term used when an insurer tries to recover some or all of its costs in settling a claim by suing others responsible for the loss. The effect is roughly the same as if you sued the responsible party, except that you are compensated faster by your own insurer.

**Uninsurable perils.** Home insurance is generally intended to help policyholders cope with the financial consequences of unpredictable events that are "sudden and accidental." Predictable events, such as flooding of a home built on a flood plain, or preventable events, such as frozen indoor pipes, are not covered. The perils that are generally uninsurable include water damage caused by floodwaters, or damage caused by the freezing of indoor plumbing.

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## Insurance issues for REALTORS®

There has been growing concern in the real estate industry about the escalating cost and availability of property insurance.

REALTORS® have provided anecdotal evidence that insurance companies have refused to insure homes that have been previously covered. In other cases, companies have decided to raise insurance premiums by a considerable amount. Some properties involved in insurance coverage issues have real or perceived environmental problems, such as oil tanks or mould. Other insurance issues develop because of outdated wiring or heritage status.

Provincial governments are responsible for the regulation of the insurance industry, including the cost of premiums and the availability of products. The federal government's responsibility is limited to ensuring that insurance companies are financially sound. The federal government obtains assurances from the Office of the Superintendent of Financial Institutions (OSFI) that the investment portfolios of insurance companies are not excessively risky.

If you're involved in a home transaction these days, you have to think about insurance. It could affect whether or not your clients get the home they want.

Whether you are representing the buyer or the seller, ask if there are any problems that would raise concerns for insurance companies. If there are, what can your clients do to alleviate them? Home insurance companies have tightened their underwriting criteria and they're reluctant to take on risks that may not have bothered them in the past. What's at stake for your clients is not just the insurance, but mortgage financing as well. Banks won't approve a home loan unless there is proof of insurance.

A number of home insurance issues have been identified that can impact the transaction process. These issues can include:

- aluminum wiring - demands to retrofit and/or change completely to copper
- 60 amp electrical service - not deemed to be sufficient regardless of the size of the dwelling
- knob and tube wiring
- gas furnaces more than 20 years old
- oil tanks
- wood burning appliances - WETT certification is being measured against current building codes
- first time buyers without prior home insurance history
- insurability point system now used by insurers which may be detrimental to first time buyers. This includes "red zoning" because of the location of the property.

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## Impact on real estate

The availability and affordability of property casualty insurance is critical to the well being of homeownership efforts in this country and the real estate industry.

Insurance is a necessary component in securing a mortgage. Ongoing insurance coverage is a necessary condition for meeting the terms of most mortgages. Increases in premiums can prohibit the marginal homebuyer from being able to afford homeownership and can severely strain the ability of existing homeowners on fixed incomes to continue to meet the ongoing costs of homeownership. Housing affordability is already a problem in many parts of the country - escalating insurance premium costs only exacerbate the problem.

Insurance affects affordability in more ways than just increased premium costs. Our multifamily practitioners report that their insurance costs are also increasing due to lender demands for additional insurance coverage over and above what has traditionally been required for mortgage underwriting purposes. Liability insurance is an example of an additional rider that is unrelated to the nature of the building structure itself.

CREA has done some survey work to gauge the impact that these events are having on transactions. In general, the reports received indicate that transactions are sometimes delayed and small numbers are falling through, especially if the buyer leaves finding insurance to the last minute.



B.C. Forest Fires 2003 CP Images

## Can insurance issues stop a real estate transaction?

In most cases, a mortgage lender will require property insurance as a condition of borrowing. No active policy in place, no mortgage.

For this reason it is recommended that the application or request for a homeowner policy be filed as soon as possible after an offer has been accepted. REALTORS® should make sure their clients know this, and ensure it is at the top of the "to do" list to complete the transaction.

Insurance companies will review a variety of factors in determining both the availability of property insurance, including the personal records of the applicant. They will review the age of the home, its "insurance history", and look for any of the issues identified in this brochure such as certification of the fuel tank and the type of wiring. In rural properties, insurance companies may also review the certification of the well and septic system.

There have been occasions in Canada in the past five years when an insurance issue has delayed closing. This is usually because the buyer has not allowed enough time to work through the issues raised by the insurance companies, or has not allowed enough time to get competing quotes from different brokers.

There are no insurance industry standards as each insurance company can develop their own policy requirements. The Insurance Bureau of Canada (IBC) does publish recommendations for standardized criteria to member companies, but these are recommendations only. For example, the IBC has recommended that insurance companies "tighten up" wording in policies regarding mould related damage. Their recommendations result in similarities in the wording used by various insurers, but each company has its own wording in its policies, and insurance coverage varies by insurer.

### Number of claims

In 2003, theft accounted for 22% of all homeowners' claims in Canada. Damages caused by factors other than water, including hail and wind, accounted for about 39% of all claims. Water damage to homes made up 27% of claims, and claims for damages caused by fire accounted for 12%.

### Most homeowners don't know what's covered

Homeowners are largely unaware about the scope of the insurance policies that cover their homes, according to a Harris Interactive survey. About 37 per cent of respondents correctly answered six of 12 questions about basic insurance coverage on their homeowner and auto policies.

The survey was based on responses from 1,000 affluent U.S. homeowners. Of those polled, 88 per cent said they knew what their homeowner's policy does and does not cover, yet further questioning revealed that many respondents also believed that their homeowner's policy covered more property than would actually be covered in the event of a disaster.

Two-thirds of those surveyed believed that their policy would provide home replacement of like kind and quality in the event of a major loss, but the most common homeowners policies do not automatically cover extra construction costs caused by code changes and other unexpected costs.

The survey showed that most affluent homeowners spend far more time managing their investment portfolios - an average of seven hours a month - than they do staying on top of the insurance coverage for their homes. The survey found that respondents spend an average of 4.7 hours per year - a small fraction of the time spent on their investment portfolios - managing their insurance coverage on their physical assets including their home. This is true despite the fact that for 47 per cent of respondents, the value of their non-financial assets exceeds the value of their investment portfolio.

94 per cent of the respondents in this survey stated that the value of their home increased during the past five years, but 27 per cent said they had not increased their insurance coverage. Some of the most common reasons cited were lack of time to look into the need to increase coverage, and simply not knowing that they needed to change the policy's limits to reflect a home's change in value.

## **Sellers need to know what's covered**

The generosity of friends and neighbours in 2004 helped an Alberta family overcome the shock of discovering the perils of not knowing the rules of what's covered in an insurance policy. For example, people who sell their homes and move out before the new owners move in may not be covered during that period if the home is empty.

That's what happened to Edna MacLeod in 2004. She sold her Ontario home, and her family moved to their new home in Alberta before the new owners moved in. Left empty, the Ontario home was vandalized. Just four days before the new owners were scheduled to move in, the vandals set a fire. The damages were estimated at \$35,000.

The MacLeod's insurance company sent them a letter advising them they weren't covered because the house was technically deemed empty. That's when friends and family in the old neighbourhood volunteered their time and efforts to repair the damage. The original buyers backed out of the deal since the house was not habitable, but after the repairs were completed the house sold again.

According to most insurance policies, when a seller moves out of a house it is assumed they have no intent to return, which means the home is empty. Most policies will then not cover vandalism or malicious acts.

Similar rules may also apply if there is damage of some kind when a homeowner goes on vacation and no arrangements have been made for someone to check on the home. If a home is left "unsupervised" or not monitored for an extended period of time, many property insurance policies also consider it "empty", which means no coverage for vandalism or damages from an incident such as a water pipe break.

## **What kind of home insurance is there?**

A homeowner needs insurance because there are dozens of dangers that threaten their home every day. Depending on the coverage, home insurance will reimburse the owner for the loss of (or damage to) the home and belongings due to an accident or theft.

Everything from fine china to the lawn tractor can be covered under some insurance policies. Others provide coverage only on the building itself. It's important to know what kind of policy to have and what it covers if an accident should happen. There are three basic types of home insurance:

- Comprehensive coverage applies to both the building and its contents (excluding items named specifically in the policy).
- A basic or named perils policy covers your property only against dangers that are named in the policy, such as fire or earthquake.
- A broad policy provides comprehensive coverage on the building, and named perils on the goods inside. It is usually cheaper than a comprehensive policy.

## **What is a named perils policy?**

Named perils policies are designed to cover accidental damages to the house. Policies can be bought for fire, explosion, water damage, theft, hail and electrical current. Additional coverage can be bought for perils not normally covered in a home insurance policy, including sewer back up and furnace oil spills.

## **What about renters' insurance?**

Landlords are not responsible for the possessions of a tenant. If your client is renting an apartment or living in a condominium, it's a good idea to get insurance. Renters and condominium owners can get coverage for both the contents of the apartment and for any improvements they have made.

## **Cost of repairs**

In addition to the rise of property values, home reconstruction and replacement costs are also climbing at a steady rate. With a healthy rise in new construction, recent natural disasters and ongoing trade disputes, the cost for lumber, plywood and other building materials continues to rise. According to the lumber industry publication *Random Lengths*, framing materials alone such as 2 x 4 studs increased nearly 40 per cent from 2003 to 2004. Many homeowners may be forced to pay these extra costs if their insurance policies do not cover them.

## Can you insure a cottage?

Many owners consider their cottage a home away from home and should consider insuring it in the same manner. Even if they only use it occasionally, or if it's "too rough" to be a home away from home it should be insured. Cottages can be covered within a house insurance policy or separately. However, there are a few differences between cottage insurance and home insurance. For example, burglary can be covered, but not theft. This means that the owner must prove there was forcible entry in order to file a claim. Also, the collapse of a roof due to the weight of accumulated snow in winter may not be covered.

## How much will it cost?

There are a number of different factors to consider when figuring out how much home insurance will cost. The policy itself makes a big difference in the price. A comprehensive policy will cost the most, but it will provide the most coverage. A named perils policy costs less but may not cover all the damages you could suffer in an accident. Discounts may be available for homeowners who have installed smoke alarms, sprinkler systems or monitored burglar alarms. Some insurance companies also offer discounts to customers as a reward if they have had a long relationship with the insurance company.

The deductible the policy carries may also affect the price of coverage. House insurance deductibles can run anywhere from \$200 to \$10,000. The higher the deductible, the lower the premium. The larger the risk the property carries, the more expensive it will be to cover. Rates can go up depending on the age of the house or if it has a wood stove or an underground oil tank. Location is also a factor. Building a house in a known earthquake zone may increase the cost of coverage.

How many previous claims your client has made may also have an impact on the price of home insurance. If their house has been broken into 15 times, they may find it quite expensive, or even impossible, to get the same coverage.



## The insurance issues about wiring

Some insurers are refusing to cover, or renew policies on residential properties with 60 amp electrical service, aluminum wiring or knob and tube wiring. Provincial safety codes do not impose a legal requirement to upgrade or replace these services. A 60 amp service or a service with knob and tube or aluminum wiring is not necessarily a problem, as long as it was properly installed and maintained.

## Knob and tube wiring in residential installations

Knob and tube wiring, also known as open wiring, was used in homes in Canada for almost 50 years, starting in the early 1900s. Parts are still available for maintenance purposes. Knob and tube wiring that was installed properly can provide many more years of service. The issue starts with changing lifestyles. Most old homes do not have as many electrical circuits as a new one. To get around this, some homeowners have installed additional outlets or new circuits and tied it into the old wiring, rather than starting a new circuit at the electrical panel.

Some problems also occur because if a circuit became overtaxed and 15 amp fuses were constantly blowing, homeowners put in 25 or 30 amp fuses to stop the problem. Having 25 or 30 amps in a wire not designed to handle it causes the wire to overheat. The wire and the insulation become brittle, and that is when the safety issues begin.

Some homeowners also did their own renovations, adding outlets but connecting them into the old wiring without making proper connections. Knob and tube wiring, on its own, is not inherently a problem. Some argue it does not have a ground conductor, but that is true of any wiring installed between 1950 and 1960. The ground conductor - or "third prong" - is necessary if you are plugging in appliances that have a 3-prong plug. If the knob and tube wiring is restricted to rooms without major appliances, this creates no special hazard.

If the home involved in your transaction has knob and tube wiring, it is recommended that you follow these guidelines:

- Have a qualified electrical contractor check the knob and tube conductors for sign of deterioration and damage. Some insurance companies may ask for a specific electrical contractor report.
- The general inspection report will also identify visible electrical safety concerns in the electrical wiring.
- Knob and tube conductors should be replaced where exposed conductors show evidence of mechanical abuse and or deterioration, poor connections, overheating, or alterations that could result in overloading.



Knob and tube wiring  
Photo courtesy of Carson Dunlop

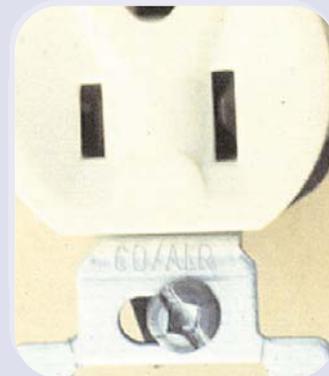
## Aluminum wiring in residential installations

Aluminum wiring was extensively used in homes between 1965 and 1976. Problems have been reported from the overheating and failure of aluminum wiring terminals. The signs of these problems are the discolouring of the wall receptacle, flickering lights, or the smell of hot plastic insulation. Aluminum wiring in the home will operate as safely as any other type of wiring if the proper materials were used, installed and maintained as per the manufacturer's instructions and the provincial safety code. If the home involved in your transaction has aluminum wiring and you suspect problems may exist, it is recommended that a qualified electrical contractor inspect the electrical system, including connections.

Not all aluminum wiring is hazardous. The safety issues involving aluminum wire usually involves homes built from the late 1960s through the early '70s, and may involve the 110 volt circuits used for outlets and lights. The safety issues usually do not involve the major 220 volt circuits for baseboard heating or major appliances (such as a dryer). In some cases connections worked loose and the wire overheated, which sometimes caused a fire. Consequently, the use of 110 volt aluminum wiring was abandoned, and older homes with this type of wiring typically warrant upgrades at connection points or boxes.

The use of aluminum wiring is common and acceptable for 220 volt circuits, such as those serving heating equipment, air conditioners and electric stoves. As long as the connecting hardware is rated for aluminum wire, and as long as the wire ends are protected with a corrosion-resistant compound, concern over the presence of aluminum wire may not be justified. In fact, the majority of electric utility companies use aluminum cable for their main service lines. In all likelihood, the power lines to your home includes aluminum.

To confirm the safety of the aluminum wire in the home involved in the transaction, recommend having a home inspector and electrician meet at the property to confer and to compare findings. The insurance company may insist on a complete electrical inspection by a certified electrician, rather than a report from a home inspector.



Aluminum wiring  
Photos courtesy of Carson Dunlop

## Aging fuel oil tanks

Oil leaks and spills from residential fuel tanks have cost Canadian insurance companies and homeowners a lot of money in recent years. Insurance companies now balk at insuring homes with older fuel tanks, and some provinces have passed strict new regulations governing when the tanks must be replaced.

The Insurance Bureau of Canada says that insurance claims from domestic oil tank leaks have increased by more than 50 per cent in the past ten years. In the Atlantic region alone, total claims were more than \$11.9 million between 1996 and 1998. That ranks sixth in consumer claims after fire, wind and water damage, burglary and liability. The increase in the number of oil spills, and the resulting damage to the environment, prompted Prince Edward Island to become the first in the country to adopt tough new regulations for oil tank installations. PEI's Department of Fisheries, Aquaculture and Environment conducted a study in 2000 that showed 63 per cent of home fuel tanks did not meet the ministry's installation standards.

Real estate transactions can be put at risk if a client purchases a property with an underground fuel oil tank and is denied homeowners insurance. If a client finds that an existing tank has not been registered, remedial action may cost them thousands of dollars.

Homebuyers have also expressed concern over home insurance policies being denied or being unable to obtain home insurance because of the age of both under and above ground oil storage tanks. A home with an exterior oil tank older than 15 years, or an interior tank older than 25 years, usually will not be insured.

### The problem

The problem is that many oil tanks are corroding from the inside out, so the failure is not readily visible. This often occurs from condensation that builds up inside the tank. Since oil is lighter than water, the water goes to the bottom of the tank and causes corrosion. The first sign of a bad tank could be an odour of oil in the air. There might be rust or corrosion where the legs are welded to the tank. It could also be the fuel filter that begins to leak or a nozzle plugging that could be a symptom.

Insurance companies are concerned that an old oil tank will leak and spill hundreds of litres of heating oil into the home, or into the ground. Spilled oil can quickly contaminate soil and groundwater. If the leak finds its way into a sump pump or floor drain, the spill will undoubtedly make it a very expensive cleanup. With outside storage tanks, where rust and corrosion are more common, a spill can contaminate the soil or make its way into nearby streams or rivers.

The most commonly used tanks for heating oil are steel containers that hold about 1,000 litres and weigh close to 1,000 kg when full. Their odd shape, which means they can be moved through doorways, also makes them unstable unless they are properly secured from tipping over.

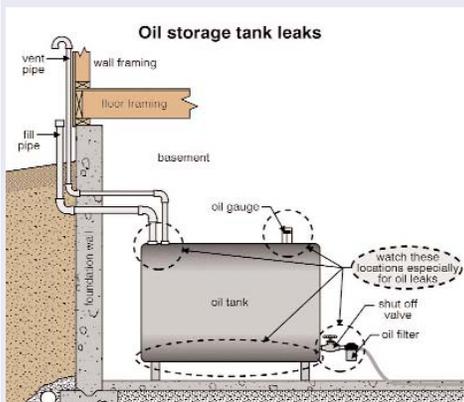


Photo courtesy of Carson Dunlop

When buying a tank, look for a label that tells the date and location the tank was made. The label should clearly indicate that it meets a national construction standard. Buying a used oil tank is not recommended. Rust and sludge that has collected in the tank will cause burner problems.

The National Fire Code recommends that all piping and connections on oil tanks be made of metal, not plastic or rubber.

### **Indoor tanks**

Many home oil tanks are designed and built for indoor use. Indoor oil tanks will generally last longer and improve the efficiency of oil-fired appliances. Indoor storage tanks are less likely to spill and do not emit an odor.

An indoor oil tank should be installed where it can be easily inspected but will not be damaged by normal household activities. If possible, the tank should be surrounded with a low curb and dike to contain any leaked oil. The tank should never be placed tight against a wall as this can cause the tank to rust.

The fuel supply line should be covered and filtered to protect them from damage. Storing objects on top of the tank could potentially lead to damage.

### **Outdoor tanks**

Outdoor tanks should be placed at least 15 metres from any well. To prevent rust, the tank's exterior should be covered with enamel paint. The tank should also be supported properly with a non-flammable base of concrete or patio stones to prevent it from shifting or falling over. Wood is not recommended as it can burn, rot and retains water, which causes the tank to rust. The tank should be sloped slightly toward the drain, and should never be in contact with a wall.

To allow for changes in ground level, the oil burner supply line should have a horizontal loop before entering the building. The line should be sloped toward the building to prevent water collection.

If possible, the oil filter should be placed inside the home because collected water can freeze and cause splitting. The supply line can be installed through the top of the tank to protect against breaking the line and draining the tank. If frost heaving or ground settling causes a tank to move, it should be leveled properly.



Photo courtesy of Carson Dunlop



## Underground oil tanks

There is concern many underground fuel oil tanks have reached the end of their useful lives and are beginning to corrode, rust and leak. Increasing homeowner insurance claims resulting from leaking fuel oil tanks are very expensive and can lead to high insurance rates, or even refusal of coverage.

It is a homeowner's legal responsibility to properly maintain the oil tank and clean up any spills or leaks that may occur.

Under current Ontario legislation for example, all underground oil tanks had to be registered with the Technical Standards & Safety Authority by May 1st, 2002. Those still in use had to be upgraded with specific leak and spill prevention equipment, or be removed. Unused underground tanks in Ontario must be removed by a registered fuel oil contractor within two years of it being taken out of service, and the surrounding soil carefully tested for contamination and cleaned. (See Page 11 for full details of Ontario requirements)

Regulations in Ontario stipulate only licenced installers can install or replace tanks in homes, and tanks must be replaced every 15 to 25 years depending on the tank design and steel thickness. In Ontario, fuel oil distributors may not supply fuel oil to an underground tank unless it is registered with the province's Technical Standards Safety Authority. Tanks that are in the basements of homes, or above-ground, do not have to be registered.

An underground tank is tougher to inspect, but the biggest tip-off it may be leaking is if your home is using more fuel than normal. Just one litre of leaked oil from an underground tank can contaminate one million litres of drinking water.

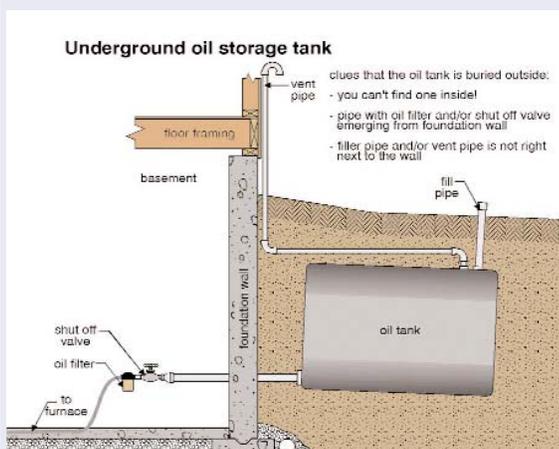
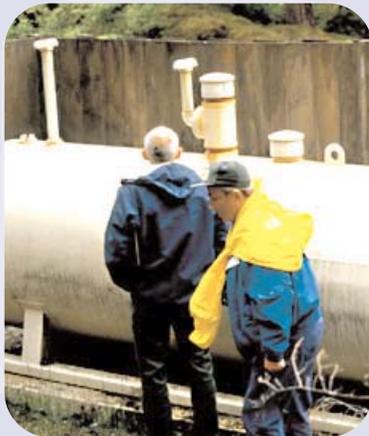


Photo courtesy of Carson Dunlop

## What consumers should do when buying or selling a home with an oil tank

Prior to closing, contact the fuel oil supplier for the home and determine if the basic or comprehensive inspections of the tank and oil-heating appliance have been completed. The fuel oil supplier will have information about the servicing/inspection program that is in place for the home.

Selling a home with an oil tank? REALTORS should expect questions regarding the age of the tank, location and proof that the tank installation meets safety requirements. Purchasers should expect to be asked, by their insurer, to provide this type of information when applying for insurance.

## Provincial standards

Although some provinces currently have safety standards for oil tanks, provincial environment departments across Canada are now reviewing installation standards for home oil tanks. Below are the provincial requirements as of February 2005. Requirements may also vary because of municipal bylaws.

### Newfoundland & Labrador

The province introduced Heating Oil Storage Tank System regulations in 2003. All existing systems must be registered with the provincial government on or before March 31st, 2007 and be inspected by a licensed inspector. All tanks will be replaced every 10 to 25 years, depending on the tank design and thickness. The full regulatory requirements can be found at: [www.gov.nl.ca/hoa/regulations/rc030060.htm](http://www.gov.nl.ca/hoa/regulations/rc030060.htm).

### Nova Scotia

While the province of Nova Scotia has safety standards for residential oil tanks in place, it relies on voluntary guidelines for the maintenance and repair of tanks.

### Prince Edward Island

In 2004, Prince Edward Island revised regulations for domestic oil tank installations. All tanks must be replaced every 15 to 25 years depending on the tank design and thickness. The complete regulation details can be found at:

[www.gov.pe.ca/law/regulations/pdf/E&O9-09.pdf](http://www.gov.pe.ca/law/regulations/pdf/E&O9-09.pdf)

### New Brunswick

While the province of New Brunswick has safety standards for residential oil tanks in place, it relies on voluntary guidelines for the maintenance and repair of tanks. At time of publication the province was assessing whether regulations are required.

### Quebec

While the province of Quebec has safety standards for residential oil tanks in place, it relies on voluntary guidelines for the maintenance and repair of existing tanks.

### Ontario

According to the Technical Standards and Safety Authority of Ontario (TSSA), if the underground fuel tank was installed:

- 25 or more years ago - the tank must be removed or upgraded by October 1, 2006
- 20 to 24 years ago - the tank must be removed or upgraded by October 1, 2007
- 10 to 19 years ago - the tank must be removed or upgraded by October 1, 2008
- Less than a year to 9 years ago - the tank must be upgraded or removed by October 1, 2009.

Underground tanks that are 25 years and older, or of an unknown age, and not specially protected from corrosion are required to be removed by October 1, 2006. Underground tanks with a storage capacity greater than 5,000 litres will need to be leak tested annually. Unused underground tanks are required to be removed and any contamination cleaned.

### Manitoba

While the province of Manitoba has safety standards for residential oil tanks in place, it relies on voluntary guidelines for the maintenance and repair of existing tanks.

### Saskatchewan

In Saskatchewan, oil tanks are regulated by the Hazardous Substances and Waste Dangerous Goods Regulations. Underground oil tanks in sites of moderate environmental sensitivity (considered "Class B") must meet the standards outlined on the Saskatchewan Environment website:

<http://www.se.gov.sk.ca/environment/protection/hazardous/CLASS B.htm>

### Alberta

In Alberta, underground and above ground tanks must be registered with the Petroleum Tank Management Association of Alberta (PTMAA). Above ground storage tanks of capacity smaller than 2,500 litres do not have to be registered. Each compartment of multi-compartment tanks is considered an individual storage tank. Registration fees are \$20.00 per tank per year.

### British Columbia

While the province of British Columbia has safety standards for residential oil tanks in place, it relies on voluntary guidelines for the maintenance and repair of existing tanks

## Mould

Although mould is a constant presence in any indoor environment, homeowners and tenants across the country are paying more attention to any impact mould may have. The extreme cases involve major renovations where mould has weakened or damaged the structure of a home or condominium. As a result, REALTOR® liability is a concern. In addition, some insurance companies are taking steps to limit coverage for mould damage.

However, scientific research on the relationship between mould and health problems is inconclusive. Currently there are no established standards for acceptable levels of indoor mould. Despite the lack of standards, mould is the latest environmental health issue generating public attention. REALTORS® are potentially liable for failure to disclose an environmental hazard.

As the issue of mould emerges in Canada, REALTORS® should be as well informed as possible about the issues. The best advice to a seller is to disclose any water problems or presence of mould up front. The best advice to buyers is "beware."

In May 2002, the "Mould Advisory Group," a committee of the Insurance Bureau of Canada, recommended that insurers tighten up wording in their policies concerning mould-related damage or injury. It noted that skyrocketing claims in the United States, mainly involving water and flood damages to residences, could spill into Canada.

The Insurance Board of Canada (IBC) then issued an advisory to its member companies, recommending they exclude mould completely from any policy.

There has not been an explosion of mould claims in Canada. From 1995 to 2002, there were less than 30 mould lawsuits in Canada, including two failed class actions.

Mould is viewed by insurers as an inevitable risk, and something inevitable is not insurable. Mould is excluded under the category of deterioration. Mould is not a new phenomenon in the insurance industry. Some insurers are offering mould coverage in separate environmental insurance policies under the umbrella of indoor air quality. According to the Ontario Real Estate Association (OREA), the premiums for environmental insurance are quite high-about \$10,000 for \$1 million of coverage-which is expensive for residential property owners.

For additional information on this subject, please refer to the CREA publication "Real Estate Guide to Mould".

Mould photos courtesy of Carson Dunlop



## Issues for homes with wood heat appliances.

For many buyers, there's nothing like the warm glow of a wood fire on a cold winter's night. But fireplaces and wood stoves present insurance issues your clients should be aware of.

There is now an official code that specifies exactly how wood heat appliances should be installed, and there could be insurance coverage issues if the code has not been followed. It's one of the things a home inspector will usually pay a lot of attention to. If you are preparing to list a home with a fireplace or wood stove, your client could have it inspected first. There are a variety of professionals who are trained in wood unit safety, including the local fire department, building inspector, a wood heat retailer, and chimney sweep.

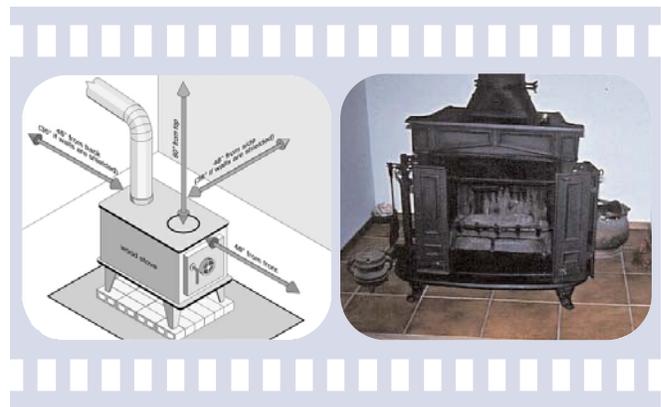
If the plan is to install a new chimney or wood heating appliance, or replace one wood stove with another, many municipalities require a building permit. If that's the case, the building inspector may automatically inspect the installation as part of the service.

Comprehensive insurance is part of wood heat safety, and making the wood heat system safer means the best possible premium for insurance coverage. Your client should also inform their insurance company or broker whenever any change is made to the wood heat system. This includes adding or changing a wood stove, modifying a chimney — anything that may influence the safety of the wood heat system.

There are four points the insurance company will be concerned with:

- Is it an approved unit? It should be certified by Underwriters' Laboratories of Canada (ULC), The Canadian Standard Association (CSA) or Warnock Hersey. There are many uncertified stoves produced that are safe, but there is no way the insurer can tell if it is up to par so the company will usually refuse to provide insurance coverage for the home if the stove or insert is not certified.
- Was it installed by a professional? Again, many "do-it-yourself" installations may be OK, but there are many where short-cuts have been taken and the unit may not be safe. If a chimney is installed it usually requires a building permit.
- Are the clearances up to the latest Building Code and Fire Code? There is no "grandfathering" of this requirement. The complete details professionals follow is in the Canadian Standards Code CSA-B365 "Installation Code for Solid Fuel Burning Appliances and Equipment" from the Canadian Standards Association. Unless there is special shielding the required clearance is 1200 mm (48") from a combustible material to the sides and rear. There must also be 1500 mm (60") clearance above the unit. For a stove with a sheet metal jacket or casing, the clearance is 900 mm (36"). The floor pad protects flooring from hot embers that might fall from the stove or fireplace. The pad must extend at least 200 mm (8") beyond the sides and rear and 450 mm (18") in front of the loading door. The floor pad must be a continuous, non-combustible surface and must not rest on the carpet unless it is strong enough to resist bending or cracking.
- Is the venting system proper? Ideally there should be no elbows in the stovepipe and it should be as short as possible.

There are a number of basic safety steps required for the proper maintenance of a wood burning appliance your client should also be aware of. It should be cleaned on a regular basis, and inspected at least twice a year for corrosion. There should also be a smoke detector and a fire extinguisher nearby.



Wood stove photos courtesy of Carson Dunlop

## Learning the hard way

When the home inspector showed up to go through a century home in rural Ontario, he noticed a small nozzle sticking out of the driveway. He told the buyers that he believed it was the top end of a fill pipe for an underground oil storage tank, buried under the driveway. It's not difficult to imagine the shock of the sellers at the potential for an environmental nightmare. When they bought the home their buyer's agent did not suggest a home inspection. They did not have one done.

They listed the property for sale 6 years later with a different REALTOR®, and filled out a Seller Property Information Sheet (SPIS) setting out what they knew. Their listing agent said she did all of her homework, researching the zoning, taxes, assessment, building permits and other public information on the property. But since nobody knew about the oil tank, there were no records of its existence.

The result: the seller paid to have the underground tank removed at a cost of more than \$5,000. Because it was deemed to be close to a nearby river, the Ministry of the Environment also required soil samples be taken to verify there were no leaks. Those tests cost another \$2,000.



## Older or heritage homes

It is the picturesque home in the perfect spot. It was built in 1901, has had a few modern touches added, but it's the character your buyer is interested in. In most cases, so is their insurance company.

Older or heritage homes usually have a number of areas of concern for insurance companies. One of the major concerns will be the roof. Very few insurance companies will take on a new piece of business if the home has not had the roof updated within the past 20 years.

A heritage home will also draw attention if it has a wood heat system. Some insurers are asking that not only should the stoves have an approved label, but that they also be installed by a professional.

The insurance company may also be concerned with the oil tank that was installed at the back of the house 20 years ago. This may require an immediate replacement not only to meet the insurance requirements, but to have a certified tank that the local fuel oil dealer will agree to service.

Other areas that can require upgrades for older homes are plumbing, heating and electrical. If galvanized pipe is used inside a house, most companies will require that it be replaced. As for wiring, most companies won't insure homes with less than 60 amp service. As described in this book, insurance companies also have concerns with aluminum or knob and tube wiring. In some cases they may insist these be replaced as well.

Because many of these older or century homes are in rural areas without municipal services, insurance companies will also want to know about septic and well installations.

Whatever the issue, insurance coverage is almost always available. Clients who have had insurance and are renewing policies will not likely be declined coverage. First time buyers may have to go temporarily with a specialty market insurance provider, where premiums are higher.

An older home, or a heritage property, may require additional time to arrange for the required insurance. Recommend your clients begin shopping for insurance as soon as possible after their offer is accepted, or recommend a conditional offer that provides for approved insurance coverage.

## Natural disasters

One of the first general insurance issues dealing with real estate is location, location, location. This is because some areas of Canada are more prone to natural disasters than others. According to Environment Canada, for example, southern Ontario and parts of the Prairies have a higher incidence of tornadoes than other regions of Canada. Well-known areas prone to flood disasters include the Saint John valley in New Brunswick, southern Quebec and the Red River valley in Manitoba. According to Natural Resources Canada potential flooding could also occur in the lower mainland of southwestern British Columbia where large populations are situated on low-lying lands.

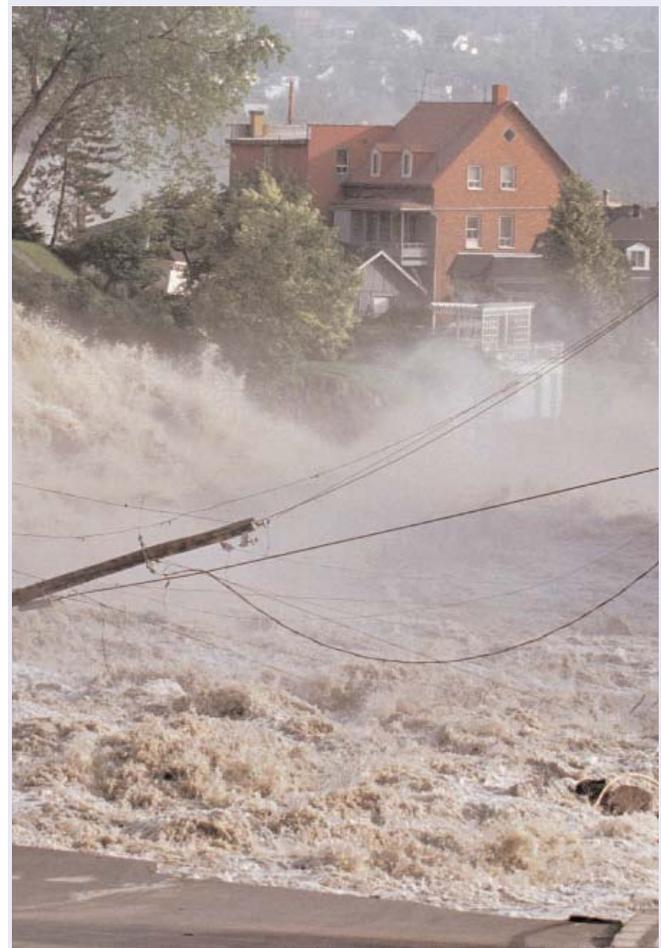
Public concern is increasing about the risk of damage caused by extreme weather. Since 2000, Canadians have been hit with three of the most costly and disruptive natural disasters in Canada's history.

The first of the major disasters was in July of 1996, when flooding in the Saguenay region of Quebec caused more than \$600 million in damages. At that time Quebec Premier Lucien Bouchard said various governments would pay about \$400 million of the amount in compensation for rebuilding homes, businesses and farms. More than 13,000 people were evacuated, and seven people were killed including two children buried in a mudslide.

In 1997, there were a number of fund-raising efforts to help residents of Manitoba effected by the flooding caused by the Red River. It was the third major flooding along the Red River since 1950 and the sixth worst Red River flood, as measured from Winnipeg, between 1800 and 1999. During the 1970s, ring dikes were built around towns in southern Manitoba to permanently protect them against flooding. Eight towns built dikes, and all eight held up against the flood of 1997. It was the homes just south of the floodway were hit hard in 1997.

More than 25,000 people were evacuated and flood damages were estimated at \$815 million.

In January 1998 a devastating ice storm hit eastern Ontario, Quebec and Atlantic Canada. The 1998 ice storm was by far Canada's most expensive natural disaster, affecting more than three million Canadians, and resulting in losses paid by insurers and governments exceeding \$2.7 billion.



Saguenay flooding 2002 CP Images

## Severe summer storms left homeowners 'in limbo'

Dave Reay of Edmonton has a great deal to remind him of the three times in July 2004 when rain and hail deluged his home in the Rio Terrace neighbourhood. In a photo album on the coffee table, he keeps snapshots of golf ball-sized hail, the flooded street outside and of family members mopping up a total of 38 centimetres of water in the basement.

Other reminders of the floods tell the tales about the plight of storm victims whose situations went from waterlogged to backlogged. Nine weeks after the first storm hit, insurance companies and city officials were still trying to work through the backlog of claims. The sheer volume of destruction in such a short time overwhelmed, in turn, every phase of flood relief, from cleanup to insurance assessment and demolition.

For the first storm that hit Edmonton July 2, 2004 homeowners filed more than 1,000 insurance claims worth about \$10 million. For the July 11th hailstorm, almost 10,000 claims with damages estimated at \$130 million worked their way through the system.

Insurance didn't help many of the flooding victims. Insurance may cover sewage leaks and hail damage to the roof but it doesn't cover surface water pouring into a home through basement windows or cracks in the foundation or walls — a common occurrence for hundreds of Edmonton homeowners that July.

The Alberta government offered compensation for uninsurable damage from the July 2004 storms. More than 5,000 homeowners applied for the grants, which are also covered under a cost-sharing agreement with the federal government.

Other natural disasters affecting homeowners and their insurance:

**B.C. Forest fires** in 2003. At the peak of the state of emergency in August, there were more than 800 forest fires burning in the province. More than 300 homes were destroyed, and insurance claims totaled more than \$200 million.

**Hurricane Juan** hit Halifax in September 2003, and was one of most powerful and damaging hurricanes to ever hit Canada. Winds peaked at 176 km/h, and the storm surge peaked at 1.5 metres. Eight deaths were blamed on the storm, including two people who died in a house fire ignited by candles they were using because of the interruption in hydro service. Total property damage was \$115 million.

**Three severe storms** in as many weeks in July 2004 caused flooding and hail damage to buildings and homes in the Edmonton area. One storm July 12th forced the evacuation of the West Edmonton Mall. Total damages were estimated at \$170 million.

**Flash flooding** in Peterborough, Ont. in 2004 was blamed on the same severe weather system that hit Edmonton. The insurance claims filed were worth an estimated \$90 million in damages.

Disaster recovery payments by insurance companies and taxpayers have been doubling every five to 10 years throughout the 1980s and 1990s. Various levels of government in Canada have spent an average of \$500 million per year since 2000 to repair damages caused by extreme weather.



Edmonton Hail Storm 2004 CP Images

## Consumers and REALTORS® should:

- Verify if a property is located in a flood plain or other designated area that may be pre-determined to be at higher risk of natural disasters.
- Verify if the property is within a specific high risk zone because of a specific event (usually identified by the Insurance Bureau of Canada).
- Consumers should verify with the insurance provider about what is, and what is not covered in a homeowner policy. For example, if there is a major rainstorm and municipal sewers back up into the basement, would insurance cover the damages?



Edmonton tornado aftermath 1986 CP Images

## Research requires disclosure

In January 2005, one person was killed and another injured when a home slid down an embankment in North Vancouver. It took rescue workers hours to find the couple in the rubble of their collapsed home at the bottom of the slope. Environment Canada had issued a heavy rain warning for the lower B.C. mainland, which had received more than 400 millimeters of rain in a week.

The mudslide that wiped out one home also prompted the evacuation of 20 other homes in the same neighbourhood of North Vancouver. That evacuation was expanded to 10 more after city officials found structural damages.

It was not the first mudslide in that part of North Vancouver. Because of similar slides in 1979, the municipality commissioned a soil stability study. The 1980 report by the geotechnical division of consulting engineers Klohn Leonoff found the danger of slides increased when fill was added to soil at the top of the slope, and slides were most likely to occur after a period of heavy rainfall. It also specifically noted the house at the lot at the top of the slide zone on Berkeley Avenue was built on fill. The study covered between 120 and 130 homes on the top and the bottom of the escarpment.

The owners of that Berkeley Avenue home said they did not know their lot was at risk, even though it was singled out in the 1980 report. Newer homes built on escarpments since the mid-1980s require geotechnical engineering studies to show the underlying soils are safe, but there are no such studies for homes built before that. The owner of the home said he did not see a disclosure statement when he bought his home in 2004.

## The "perils" home insurance may not cover

Home insurance is notoriously complex. The complexity is around the types of "perils" covered by the policy. A "Peril" is the way the damage occurs. The easiest way to explain this is to look at the standard list of perils that most insurance companies consider in reviewing an application for coverage:

- fire
- lightning
- theft
- volcanic eruption
- falling object
- weight of ice, snow or sleet
- accidental discharge of or overflow of water or steam from within a plumbing, heating, air conditioning or automatic fire-protective sprinkler system, or from a household appliance
- sudden and accidental tearing apart, cracking, burning, or bulging of a steam or hot water heating system, an air conditioning or automatic fire-protective system
- freezing of a plumbing, heating, air conditioning or automatic fire-protective sprinkler system, or of a household appliance
- explosion
- riot or civil commotion
- damage caused by aircraft
- damage caused by vehicles
- windstorm
- hail
- smoke or smoke damage
- vandalism or malicious mischief
- sudden and accidental damage from artificially generated electrical current (does not include loss to a tube, translator or similar electronic component).



Hurricane Juan 2003 CP Images

Consumers can get an "all perils" policy, which will cover the complete list of perils. Most home insurance policies will have some limitations.

A number of types of natural disasters are excluded from home insurance policies. The homeowner can get a special rider or endorsement to cover damages from these disasters, but this type of home insurance coverage will cost more and must be specified.

## Condo Insurance

If your client is buying a condominium, there is a unique insurance relationship with the condominium corporation. Your client as owner should insure their belongings and the structural parts of the building that they own (kitchen cabinets for example) under their own insurance policy. The condo board will need to have an insurance policy to insure the overall building, including each unit.

To be sure that the buyer is adequately insured, and has included the structural components that belong to the owner they should read the condominium corporation's insurance policy carefully. This area - what the individual owns versus what the corporation owns - can be a very grey area. The more the buyer knows about the condo corporation's insurance the better they can tailor the coverage for their specific unit. For example, some condominium contracts go so far as to specify the individual buyer owns the paint on the walls.

Here's an example: A condo owner on the top floor is away for the weekend. Their hot water heater springs a leak. The water travels from the top unit down through the roof of the unit below and causes significant damage. Whose insurance pays?

Condominium buyers can also get a special type of insurance coverage against "unit assessment". This provides protection against a one-time per unit assessment the condominium corporation decides to charge in addition to the regular condo fees. This 'special assessment' usually occurs when major repairs or renovations are required. For example, if there is a fire in the lobby of the condo building, the insurance for the condominium corporation will pay for most of the damages. But if the policy is only for actual cost as opposed to replacement cost there will be an amount that must be covered by the corporation. That is when the corporation may decide to add a unit assessment, which could be a very large amount. Condo unit assessment coverage will protect the buyer if this occurs.

Condo owners will also need liability coverage, and they may also want to consider title insurance.

## Using title insurance

Title insurance was introduced in Canada just over a decade ago, and is now an accepted part of the home-buying process. Title insurance protects buyers against problems that may slip past a title search.

The title to a property describes who has the rights of ownership to it, and there can be a variety of issues in determining "clear" title. These could include liens on the property because taxes or contractors haven't been paid. The previous owner may have done renovations without a permit or ignored work orders from the municipality. Part of the property such as the backyard deck or roof eaves could also be encroaching on a neighbour's property.

There are several reasons why title insurance has become popular. It primarily offers broader ownership protection, especially from mortgage fraud.

The largest Canadian provider of title insurance issued more than 500,000 policies in 2004, and more than two million since it started in 1991. The company recently introduced a policy providing coverage for current homeowners as well. It provides the same protection as that of a policy taken out when a home is purchased, protecting owners against problems such as survey defects, tax arrears and fraud.

In 1997, Canadian lawyers introduced their own title insurance policy, called TitlePlus. It has more stringent underwriting policies, and generally covers the legal services provided by a lawyer. If errors are made when closing a transaction, leading to a loss, the insured buyer can get compensation without having to sue their lawyer for negligence.

What's the most common claim made under title insurance policies? Property taxes not paid by the previous owner. There are fewer claims involving repairs done without a work permit. Fraud is also involved in a small percentage of claims, representing about 2.5 per cent of claims filed in 2004.

## **Some FAQs about property insurance**

### **When should clients have property insurance?**

Insurance coverage on their home should begin as soon as they become the legal owner or tenant, even if the home is still under construction. If it is a new home, a policy can also cover building materials stored on, or adjacent to the property. Make sure that the application for insurance is at the top of the "to do" list once the offer has been accepted.

### **How long will an insurance policy cover a vacant home?**

This will vary by policy, but usually Canadian insurance policies do not provide property insurance if the home is vacant for more than 30 days. If your client is moving out before the new owners take possession, make sure they verify insurance coverage.

### **Will insurance policies cover the old and new home?**

Some insurance policies will provide for basic coverage of damage of two homes, or coverage of contents in both. Your client should ask their broker or agent if their current policy will cover the contents at both the old and new locations, and in transit as well. Possessions may already be covered for damages during a move under an existing policy. Theft insurance usually applies only when a building is ready for occupancy.

### **Has your client got enough insurance?**

There is no advantage to over-insure a home or building by including the market price of the land or property in the insured value. Whatever the limits of the policy, your client can never claim for more than the actual loss to insured property. Insured property in most policies does not include the market value of land.

### **Do we tell the insurance company about planned major changes?**

If your client's plan is to buy and then immediately make major changes, the insurance company should be advised at the time of the transaction. This can involve plans to build a rental apartment in the home, divide the home into a duplex, or create a business based in the home. The basic guideline is if there are plans to make any significant alterations to the structure or the way it's used, make sure your client tells their insurance company or broker.

### **What happens if my client wants to buy, then rent out the home?**

This will require working with the insurance company, because there will usually be restrictions on such things as theft and damage by tenants. This is critical if your client rents a home that is later used for illegal activities, including a Grow op. Some Canadian insurance companies now have specific clauses that will nullify coverage for damages caused by a Grow op.

### **If my client wants to rent, what are the landlord responsibilities?**

Tenants are responsible for damages they may cause to a home or any part of the building in which they live, or to others who live or visit there. A tenant is also responsible for insuring their own possessions. Landlords have relatively few obligations to compensate tenants for damage to or loss of personal possessions. A tenant can also get insurance coverage for improvements they have made to the home or rental unit that may not be covered by their policy covering possessions, such as carpeting, built-in cabinets or sound systems.

If the rental unit is a condo, your client should also check the condominium association's policy to determine what is covered by the building's overall policy.

## What's required of a REALTOR®?

There are a number of things you can do to make sure the transaction goes smoothly. Some deal with disclosure, and others with basic education of how Canada's insurance system works.

### If you're working with a seller:

Selling a home with an oil tank? REALTORS® should expect questions regarding the age of the tank, location and proof that the tank installation meets safety requirements.

Do you know if the home you have listed is sitting on a slippery slope, and the municipality wanted it moved? REALTORS® are required to disclose latent defects of which they are aware, and obligated to disclose defects of which they have been made aware.

### If you're working with a buyer:

Make sure they put acquiring insurance at the top of the "to do" list. Buyers often assume getting coverage should be "no problem", but because of changing insurance guidelines some things can make it an issue.

Make sure your clients know what features in their new home may be an issue for the insurance company. If the roof is more than 25 years old, there is a wood stove, open or knob wiring, or a registered underground oil tank - any of these may raise questions.

You can recommend including an insurance clause in any offer. REALTORS® in British Columbia, for example can help protect buyers by using the "Subject to Fire/Property Insurance Clause" recommended by BCREA. The clause says "This offer is subject to the Buyer obtaining approval for fire/property insurance, satisfactory to the Buyer, on the property located at \_\_\_\_\_ by \_\_\_\_\_, 20\_\_\_. This condition is for the sole benefit of the Buyer."

## Insurance checklist

Be prepared. These are some of the basic questions you or your clients may be asked in their application for insurance:

*Is the home located in a known "problem" area such as a flood plain, or in an area prone to mudslides?*

Yes \_\_\_\_\_ No \_\_\_\_\_

*How old is the home?*

\_\_\_\_\_ years or built in \_\_\_\_\_

*What is the construction type of the home? (brick veneer, cinder block, wood frame, etc)*

Type: \_\_\_\_\_

*What type of roof does it have? (shingle, steel, shake, etc)*

Roof type: \_\_\_\_\_

*How old is the roof?*

\_\_\_\_\_ years old or installed in \_\_\_\_\_

*What is the estimated replacement value of the home?*

\$ \_\_\_\_\_

*Is the home connected to municipal services or on a septic and well system?*

Municipal services \_\_\_\_\_ Septic and well \_\_\_\_\_

*What type of heating system does the home have (oil, electric, solar, etc)? Heating type: \_\_\_\_\_*

*Is there any form of wood burning appliance in the home?*

Yes \_\_\_\_\_ No \_\_\_\_\_

*Is it certified? Yes \_\_\_\_\_ No \_\_\_\_\_*

*What type of electrical entry is there?*

110V \_\_\_\_\_ 220V \_\_\_\_\_

*Does the home have smoke detectors?*

Yes \_\_\_\_\_ No \_\_\_\_\_

*How far is the home from the nearest fire hydrant or fire station?*

\_\_\_\_\_ km from nearest hydrant \_\_\_\_\_ from nearest fire station

*Have you ever had an insurance policy declined or cancelled?*

Yes \_\_\_\_\_ No \_\_\_\_\_

Any questions or comments about the service or products CREA provides?  
You can contact us on-line at [info@crea.ca](mailto:info@crea.ca).

**CREA**

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