

**Insurance Coverage for Mould Remediation in Toronto
Community Housing**

Date:	March 5, 2014
To:	Executive Committee
From:	Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2014\Internal Services\Cfo\Ec14001Cfo (AFS #19012)

SUMMARY

This report responds to a motion adopted by City Council at its meeting on November 13, 2013 that directed "the Deputy City Manager and Chief Financial Officer, in consultation with the General Manager, Shelter, Support and Housing Administration, and the Chief Executive Officer, Toronto Community Housing Corporation, to report to the Executive Committee on how insurance companies operate in terms of coverage of repair issues, including mould, in the view of reducing Capital repair backlog pressures."

Toronto Community Housing's (TCH) property insurance policy specifically excludes coverage for mould, unless the mould arises from an insured peril. TCH's liability insurance policy specifically excludes coverage for mould.

It may be possible to purchase a type of liability insurance for environmental perils, including mould. However, the cost of the work to develop a portfolio wide mould management plan required for the insurance application cannot be justified given the very low likelihood of the plan's acceptance by the insurer and the high cost of the additional insurance.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer recommend that:

1. The Executive Committee receive this report for information.

Financial Impact

This report has no financial impact beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on November 13, 2013, City Council considered the report entitled "A Ten-Year Capital Financing Plan for Toronto Community Housing". Council adopted all recommendations in the report.

{<http://www.toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-62782.pdf>}

Recommendation 4, directed the Deputy City Manager and Chief Financial Officer, in consultation with the General Manager, Shelter, Support and Housing Administration, and the Chief Executive Officer, TCH, to report to the Executive Committee on "how insurance companies operate in terms of coverage of repair issues, including mould, in the view of reducing Capital repair backlog pressures" .

ISSUE BACKGROUND

As discussed in the report on the Ten Year Capital Financing Plan, TCH requires on-going and predictable funding in order to develop and execute an enhanced capital plan that can deploy \$2.6 billion and make the investments required to ensure TCH's 58,500 units are adequately maintained over the long-term.

TCH's ongoing expenses include expenses for the remediation of mould. This report reviews the possibilities for insurance coverage for mould remediation as a way of reducing cost pressures for TCH.

The Manager, Insurance and Risk Management for the City of Toronto and the Risk Manager, Risk Management & Insurance for TCH were consulted for this report. Both agree with the content of this report.

COMMENTS

Repair Funding: Insurance vs. Maintenance

Property insurance protects the physical assets (buildings, contents, furniture, fixtures, equipment, stock & supplies) of the insured. Property insurance policies are written on the basis of an "occurrence". This refers to one discrete accidental, unexpected event of physical loss or damage.

Physical loss or damage that occurs gradually, over time or is caused due to wear, tear and gradual deterioration is considered not insurable. This is a widely held concept and guiding principal for the application of insurance. Insurance cannot be called upon as a funding source for regular maintenance repair costs.

Toronto Community Housing's Insurance

Insurance coverage for TCH is provided through the Housing Services Corporation (HSC). HSC is legislated by the *Housing Services Act, 2011* to design and manage a group insurance program for social housing landlords.

TCH has two types of insurance: property insurance and liability insurance.

TCH 's property insurance covers resultant damage from an insured peril. Physical damage caused by mould is covered under TCH's insurance policy but only if it directly results from an insurable occurrence. This means that if one discrete event of physical damage (e.g., windstorm that opens a roof structure to allow water to penetrate the building) results in mould that causes further physical damage, then the mould damage is also insurable.

TCH does not have insurance coverage for mould beyond the coverage for insured perils. For example, the cost to remove mould discovered through a routine inspection in the absence of an event of physical damage would not be considered insurable.

Liability insurance protects the insured party against a number of different types of liability. The most frequent type of liability claim arises from bodily injury, including death, and third-party property damage arising out of the premises and its operations.

TCH's liability insurance contains an exclusion for mould.

The exclusions for mould are standard in property and liability policies.

Insurance Trends

Coverage is generally available for mould only when it can be directly linked to other covered / insured losses.

According to the Director of Insurance Services for the HSC, the average cost of a fire claim for the social housing portfolio has increased approximately 85% since 2003. Much of that cost can be attributed to a higher level of replacement work than was done in the past. This is done to ensure that mould problems do not arise at a later date. Insurance companies consider prevention of mould related claims arising from an insured peril to be a key strategy in mitigating their underwriting costs.

Some environmental liability insurers can offer coverage for mould. This can be included as a coverage extension to an existing pollution liability insurance policy. However,

before insurers would even consider providing this type of coverage, they require a review of the corporation's formal mould management plans.

Pollution liability policies require each and every location be scheduled. Blanket coverage for a portfolio of properties is not readily available in the market. With a portfolio of older buildings, there is a high probability that some locations will have leaks that make them susceptible to mould. The presence of a known existing condition would very likely exclude TCH from pollution liability coverage.

This type of insurance is subject to large deductibles and costly premiums.

Even if insurance coverage is in place for mould, the policy is a third party liability policy so in order to trigger coverage, there must first be a third party claim against the insured. i.e. tenant starts a claim against TCH for mould in a unit; coverage is triggered, mould remediation of that unit is considered under the policy.

Conclusion

TCH's property insurance specifically excludes coverage for mould, unless the mould arises from an insured peril. TCH's liability insurance specifically excludes coverage for mould.

It may be possible to purchase a type of liability insurance for environmental perils, including mould. However, the cost of the work to develop a portfolio wide mould management plan required for the insurance application cannot be justified given the very low likelihood of the plan's acceptance by the insurer and the high cost of the additional insurance

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SIGNATURE

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