

# Insurance Insights

by Ken Furst and Jason Schiciano

Levitt-Furst Associates



## Key Exclusions on Your Commercial Property Insurance Policy (Part 2 of a Two-Part Series on Insurance Policy Exclusions)

TARRYTOWN

Surely, regular Impact readers recall the "Insurance Insights" article from the June/July 2017 issue (available online at [buildersinstitute.org/impact-newspaper/](http://buildersinstitute.org/impact-newspaper/)), titled: "Key Exclusions on Your General Liability Policy, Part One of a Two-Part Series on Insurance Policy Exclusions."

The title of the article implied a "Part 2" would follow, but, to date, Part 2 has been nowhere to be found. Part 2 was slotted for the September/October 2017 issue, but the story was shelved with good reason, to give a timely report on: "Lessons from Harvey, Irma and Maria - Three More Reminders to Fully Check Your Insurance Coverage." Thereafter, the January/February 2018 Impact featured another timely article, "A Review of New York State Paid Family Leave," which summarized the new law, effective in January of this year.

Along the way, poor Part 2 of Insurance Policy Exclusions waited patiently, and now, without further delay, we present "Key Exclusions on Your Commercial Property Insurance Policy - Part 2 of a 2-part Series on Insurance Policy Exclusions!"

All businesses (including construction contractors/builders, condos, co-ops, apartment buildings, and property managers) typically maintain a Commercial Property insurance policy. Most carriers providing Commercial Property insurance utilize boilerplate policy language (published by Insurance Services Office, Inc. ["ISO"]), which contains standard coverage and exclusion language, regardless of the type of business being insured.

### Specifics

For instance, the ISO "CP 00 10 10 12" (Building and Personal Property Coverage Form) and the ISO "CP 10 30 10 00" (Causes of Loss-Special Form) could be combined to make-up a Commercial Property policy covering a commercial office building, or an apartment building. The "standard" Commercial Property policy language is often supplemented by various endorsement and/or exclusion forms, which can broaden and/or restrict coverage beyond the standard Commercial Property provisions.

In very general terms, the most important Commercial Property policy coverages for Building and Realty Institute (BRI) members involve payments for claims of damages to a building and/or contents (e.g. furniture, decorations, etc.), as a result of various "perils," such as fire, a broken pipe, a severe storm, or a fallen tree, etc.

While it is important to know what a Commercial Property policy covers, it is equally, if not more important, to know what the policy does not cover (i.e. the policy's "exclusions").

There are many exclusions common to all Commercial Property policies, but those which are among the most relevant for BRI members are noted in the following sections of this article.

### A Key Fact

**Important** - many carriers offer "enhancement" endorsements, which add-back (subject to certain limits and conditions) coverage for a "bundle" of perils that are excluded on the standard ISO Commercial Property Forms. If an enhancement endorsement is not available, or in addition to the enhancement bundle, coverage may be available for individual (normally excluded) perils by endorsement, as noted further into this article.

**Ordinance or Law** - The costs to demolish damaged property and remove debris, along with the increased costs to rebuild a building in compliance with current building codes or ordinances, such as life safety (e.g. hard-wire smoke detectors or fire sprinklers) or Americans With Disabilities Act (ADA) compliance (e.g. wheelchair ramps) are excluded, but can (and should) be added by endorsement, especially for older buildings.

**Earthquake** - Loss due to an earthquake is excluded, but can be added by endorsement.

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From the Editor's Desk

## Hanley's Highlights

by Jeff Hanley

Associate Director, Building and Realty Institute (BRI), Impact Editor

## Going Home Again Can Most Definitely Be Done!

ARMONK

A novel by Thomas Wolfe entitled "You Can't Go Home Again" stresses that trying to recover cherished experiences from the past cannot be done.

With all due respect to Wolfe and his novel, there are exceptions to that rule. An example occurred when I attended the Apr. 25 groundbreaking for The Standard, a new 14-story residential building on the site of the former Standard Star newspaper building in downtown New Rochelle.

As a reporter and columnist with the former Gannett Westchester Rockland Newspapers (now The Journal News) from 1981 to 1989, I often worked at The Standard Star offices as a member of the chain's former Sound Shore Sports and News Bureaus.

And though I never worked at the former Standard Star offices on 251 North Avenue, the development site for The Standard, I was based at the newspaper's offices on 92 North Avenue. As a result, the groundbreaking ceremony was a definite return home, of sorts, for me.

Memories from my days with Gannett Westchester Rockland Newspapers returned to me as I joined with executives of The Cappelli Organization (the project's developer), city officials from New Rochelle and media members at the well-attended groundbreaking ceremony. The memories - including those of the late and talented Jim O'Toole, my sports bureau's Editor at Gannett Westchester Rockland Newspapers and my longtime mentor - were with me throughout the program, as well as when I left the groundbreaking ceremony.

The building site for The Standard spans the block between 251 North Avenue and LeCount Place. The new building will feature 112 apartments and approximately 4,000 square feet of ground-level retail space. The apartments, which range from 440 to 755 square feet, will be comprised of 13 studios, 92 one-bedroom and 7 two-bedroom units, project officials said.

Project officials added that The Standard will offer a combination of luxury amenities and easy access to mass transit that is very appealing to Millennials, a driving force in today's rental market. The start of the construction of The Standard marks a new strategy for the Cappelli Organization in New Rochelle to develop smaller rental units targeted to Millennials, project officials said.

A full report on the groundbreaking ceremony for The Standard, as well as on the development, is one of the many noteworthy articles in this issue of IMPACT. Other reports include:

❖ A Page One story on The Cooperative and Condominium Advisory Council (CCAC) of The Building and Realty Institute (BRI) voicing its opposition to proposed legislation on the local and statewide levels that is calling for Boards of Directors of co-ops to issue decisions on proposed shareholders within a specific 45-day period. The proposals also call for Boards of Directors to state reasons for the rejections of proposed shareholders.

❖ A Page One report on the preparations of The Apartment Owners Advisory Council (AOAC) of the BRI for the upcoming Public Hearings and Deliberations of The Westchester County Rent Guidelines Board. The guidelines board is the entity that annually decides on guidelines for lease renewals affected by the Emergency Tenant Protection Act (ETPA). Those guidelines are decided upon after the board conducts its Public Hearings and Deliberations.

❖ A Page One study from The National Association of Home Builders (NAHB) citing that sales of newly built, single family homes rose 4 percent in March to a seasonally adjusted annual rate of 694,000 units. The rise occurred after an upwardly revised February analysis, according to newly released data by The U.S. Department of Housing and Urban Development (HUD) and The U.S. Census Bureau that is contained in a study released on Apr. 24 by NAHB. The increase is the second highest reading since the Great Recession of 2008-2009, according to the NAHB study.

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## Co-op and Condo Corner



By Diana Virrill, Chair

The Cooperative and Condominium Advisory Council (CCAC)

## Words of Praise for the Staff of Our Organization!

ARMONK

For this edition, I would like to take a step away from the usual format of this column and focus on those who are the backbone and front runners of The Building and Realty Institute (BRI) and all of its affiliate organizations - including The Cooperative and Condominium Advisory Council (CCAC).

Our associations are fortunate to have three Directors who work so tirelessly to implement the programs and information that is so vital to the BRI and its affiliate organizations.

As building, realty and co-op/condo leaders, we call upon the BRI's staff with thoughts and ideas to be developed in the hopes that our ideas will benefit our constituency. We then leave the execution to our three Directors. Those Directors sort out the information and create an answer to our concerns. That process is vital to our success in providing up-to-the-minute information to all of the BRI's members.

The trio of BRI Directors that I speak of is Albert Annunziata (executive director), Jeff Hanley (associate executive director) and Maggie Collins (director of membership). Our organizations rely on their collective abilities and many levels of talents and resources on a daily basis.

Of course, a special mention should also go to Jane Gill (the BRI's controller) and Margie Telesco (the BRI's office manager), two additional staff members who are so very important to the successful operations of the BRI's office.

I am quite sure that all of the members of the BRI's "family of membership" join me in taking this opportunity to thank these hard-working and creative people. I know our members join me in letting our staff know how much we appreciate their individual abilities and input.

Annunziata has a special ability to thread concerns with a variety of solutions. His long history in the politics of Westchester County and New York State is an incredible asset to the BRI. His communication skills with legislators and government officials are so very valuable to the BRI, as well as to the building, realty and construction industry. We are so very fortunate to have him as our Executive Director.

Hanley brings his uncanny recall of facts and depth of insight to all of his work. His background as a reporter/columnist has afforded him the ability to serve as Editor of this newspaper so very well. That background also helps in his communications with our membership and the many entities and agencies that he and our members deal with on a daily basis. And, he has served so very well as host of "Building Knowledge With The BRI," our organization's

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# Building & Realty Industry Officials Express Their Sadness Over the Death of Bob Bossi

By Jeff Hanley, IMPACT Editor

ARMONK



Robert Michael "Bob" Bossi, Sr.

Representatives of The Builders Institute (BI)/Building and Realty Institute (BRI) were saddened to learn of the recent death of BI-BRI member Robert Michael "Bob" Bossi, Sr.

Bossi, a resident of Katonah, died May 7. He was 81.

A member of the BI-BRI since 1977, Bossi was a long-time member of the organization's Board of Trustees. He served as Chairman of the BRI's Home Builders Advisory Council (HBAC) from 2015 to 2018. Bossi was also a Vice Chair of the HBAC, as well as a longtime member of its Board of Directors.

"The staff of the BI-BRI and its members were very sorry to hear about Bob's passing," said Albert Annunziata, executive director of the BI-BRI. "He was always

willing to contribute to our efforts, and he offered valuable input on the many issues affecting our region's building, realty and construction industry."

Annunziata added that a Moment of Silence for Bossi was observed at the May 10 Board of Trustees' Meeting of the BI-BRI.

Bossi was born in the Bronx on Aug. 30, 1936. He served in the U.S. Army from 1957 to 1959. He was also a member of the army's reserve unit, according to media reports. He received an Honorable Discharge from the army, the reports added.

Bossi was a bricklayer contractor in the Bronx. He founded Northern Westchester Builders, Inc. in 1970. Bossi and his company were involved in the construction of many single-family homes in Westchester County, BI-BRI officials said.

"Bob will most definitely be missed," Annunziata said. "The Trustees of the BI-BRI, and its staff, extends their deepest sympathies to his family, friends and business colleagues."

## REPORT:

# Airbnb Is Beginning to Have a Positive Impact on the Hudson Valley Real Estate Market

RYE BROOK

As tourism in the Hudson Valley continues to grow, the popularity of short-term rental programs like Airbnb is beginning to have a positive effect on the real estate market, according to a recent report.

"For the first few years, we felt that Airbnb's were working against us because people had the attitude of why should we buy when we can rent a home that suits our immediate needs," said Katherine Jennings, who manages Houlihan Lawrence's Millbrook office in Dutchess County.

Yet, the report said, it seems being able to test the waters without commitment has helped these renters become better familiarized with the area's communities, ultimately leading them to more comfortably consider a second-home purchase. And many buyers are, in turn, listing them, in part on whole, back-on platforms like Airbnb.

"They have gotten tired of moving their skis and their children's toys from house to house," said Jennings, who oversees 35 agents who cover Dutchess, Columbia, Ulster and Greene counties in New York and Litchfield County in Connecticut. "Plus they know what kinds of properties will work on Airbnb."

Listings with standalone guesthouses, as well as a main house for the owners, have become extremely popular, the study said.

The new tax code enacted by Congress late last year, which severely limits the amount of deductible state and local taxes, is also having an effect, the report added.

"Some of our buyers are telling us that their accountants are advising them that if they own a second home as an LLC then they can write off some of the expenses of owning the house against the Airbnb income they get from it," Jennings said.

In general, nightly rates for Hudson Valley Airbnb's range from \$200 to \$400 for a house, she said. Popular communities include Hudson, Rhinebeck, Amenia, Millbrook, Millerton, Chatham, Woodstock, Saugerties and New Paltz.

"Essentially, it starts at Millbrook and goes north," Jennings said.

In the Columbia County city of Hudson, nightly rates for in-town apartments range from \$150 to \$300, said Annabel Taylor, a Houlihan Lawrence agent based in Millbrook who owns two Airbnb rentals in Hudson with her husband, Zach Hill.

"It's been successful beyond our wildest dreams," she said, adding that the process generates about \$10,000 a month in the summer.

"Almost all of my clients keep Airbnb in mind when purchasing property," Taylor said. "It's always a factor when figuring out their monthly carrying costs."

That scenario is especially true for Taylor's Brooklyn clients looking to buy a second home in the Hudson region. "They can't afford to buy in Brooklyn so essentially they are buying their second home first."

Renters are predominantly from New York City, but owners can count on a steady stream of tourists from around the country and around the world, Jennings said. The prime season runs from Memorial Day through Columbus Day, she added.

"I've been surprised at how busy I've been in the off-season," said Jennings, who has an Airbnb on her horse farm in Ghent (N.Y.). "I would say I have it booked for half of the off-season weekends."

The report added that tourism has become big business in the Hudson Valley. More than 4.75 million people visit Dutchess County annually, and tourism spending in the county in 2016 increased 7.6 percent over 2015 to more than \$568 million, according to Dutchess Tourism.

Houlihan Lawrence is the leading real estate brokerage serving New York City's northern suburbs, company officials said. Founded in Bronxville in 1888, the family run company is deeply committed to technological innovation and the finest client service, officials added.

The firm has 30 offices and 1,300-plus agents serving Westchester, Putnam, Dutchess, Columbia, Ulster and Orange counties in New York and Fairfield County in Connecticut. The company ranks in the top 20 of all brokerages nationally and achieved a total sales volume of over \$6 billion in 2016, spokesmen said.

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## Key Exclusions on Your Commercial Property Insurance Policy, Continued from p. 2

**Flood** - Flood is excluded. Most people think their property is not susceptible to a flood, if their property is not near a river, stream, or body of water (such as a lake or pond). However, a "Flood" is defined as "a temporary condition where normally dry land or two or more properties are inundated by water." By this definition, a flood can result not only from the overflow of a body of water, but also from a rapid accumulation of rainfall (think: nor'easter, super-storm, hurricane), or a drain system overflow. Almost all properties in our region (except those built literally on top of hills) could become flooded. Flood coverage may be available by endorsement. Otherwise, Flood Coverage is available through the National Flood Insurance Program (NFIP).

**Back-up of Sewers, Drains, or Sumps** - These water-related claims are also typically excluded from the standard Property policy, but coverage can usually be added by endorsement. That is a wise addition, given the aging sewer and drain systems in our region, coupled with the possibility of sump pumps failing during a storm.

**Water Under the Ground Surface** - This exclusion negates coverage for water damage claims, due to underground water supply mains, fire hydrant supply lines, and other sources of underground water. Endorsements may be available to add this coverage.

**Water Seepage** - "Continuous or repeated seepage or leakage of water that occurs over a period of 14 days or more" is excluded, but coverage may be available through a Flood endorsement, or other water-related endorsement, depending on the carrier.

**Boiler Explosion** - This coverage is excluded, but the Mechanical Systems Breakdown (a/k/a Boiler and Machinery coverage) endorsement addresses this peril, and is usually available for a small additional charge.

**Pollutants** - Property damage caused directly by pollutants, including mold/fungus is excluded.

**Faulty Planning, Design, Workmanship, Construction, Grading, Materials, Maintenance** - Damage to property caused by mistakes or defects in architecture/engineering, or related to building/material, or maintenance/repairs, is excluded.

**Utility Services** - When utilities (power, water, etc.) fail, businesses are often not able to function, which can result in a loss of business income. Unfortunately, coverage for losses due to utility services failures are limited, especially if the origin of the failure is at a power station many miles away from the business.

**Wear-and-Tear, Rust, Corrosion, Deterioration, Hidden Defects, Settling, Cracking, Nesting/**

**Infestation** - Losses from these perils are always excluded.

**Types of Property Not Covered** -

Underground pipes, retaining walls, bridges, roadways, walks, patios, and other paved surfaces are typically not covered. However, some carriers will offer coverage for these types of property by endorsement.

As we said in Part I (regarding Commercial General Liability policies), like so many other things, with the Commercial Property policy protecting your business's building and contents, the "devil is in the details." Know what your policy doesn't cover, and decide if you should purchase a separate policy or endorsement (if available) to provide coverage for claims, which would otherwise be excluded.

Your insurance broker can assist with identifying and explaining exclusions in your Commercial Property policy, as well as options available to address them.

For more information on personal and business insurance, contact your broker, or Levitt-Furst, at (914) 457-4200.

**Editor's Note:** Levitt-Furst Associates is the Insurance Manager for The Builders Institute (BI)/ Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region. The firm is based in Tarrytown.

**Know what your policy doesn't cover, and decide if you should purchase a separate policy or endorsement (if available) to provide coverage for claims, which would otherwise be excluded.**