



President's Message – April 2014

I have actually seen robins, so it must be spring. Hard to believe it since we still have 3 feet of snow on the ground in spots...we do know that eventually, it's going to warm up, so we just have to be patient...

We have our Elections coming up this month; there are positions open for social director, and 2 executive directors, and executive Secretary. If you are interested in running, please contact the executive. April is also our Fun Night, with funny money to be won – and spent – on a variety of prizes. There is no Out of Town meeting this year, so we have another excellent educational seminar coming up in May, and to conclude the year, our Annual Golf Tournament held at Ariss Valley Golf Club. You will find the registration forms in this issue. Space fills quickly, so be sure to get your foursomes together!

We are looking for articles as they relate to Accident Benefits, Auto Bodily Injury, and General Liability. If you or any of your contacts would be able to provide articles, they would be welcome. I hope that you enjoy the new bulletin format with colour pages and magazine quality paper. I think it is an enormous difference from bulletins in the past.

I look forward to seeing you out at our next meeting, April 24th! Until then, stay warm (and dry)

Go Spring!

Cyndy M. Craig, CIP CRM

KW-OIAA President

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If you have any questions, concerns or comments, please do not hesitate to contact any of the above committee members.



Schedule of K-W Chapter Monthly Meetings 2014

Date	Topic
April 24 th , 2014	Elections and Fun Night
May 29 th , 2014	Accidents Outside of Ontario
June 26 th , 2014	Annual Golf Tournament

Are you interested in joining the OIAA Board of Directors?

Now looking for new members for the 2014-2015 term!!

Positions open to Adjusters:

Director (two positions are available)

Secretary

Position open to Social Members:

Social Director

In order to put your name forward, you must be a member in good standing; dues must be paid up to date. If you are interested, please contact either Cyndy Craig or Laura Potts for more information.

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Spontaneous Breakage of Tempered Glass

By Jason Nguyen

Fully tempered glass is used for a variety of applications that generally require increased strength and reduce the likelihood of injury in the event of breakage. Tempered glass is commonly found in most modern glass facades, shower enclosures, stairway barriers and sloped glazing.

The difference between tempered glass and annealed (typical) glass is that tempered glass has been heat-treated for strength. The heat-treating process involves heating annealed glass to approximately 650°C and then rapidly cooling the glass to create surface compression in the glass. Because of the compression in the glass, fully tempered glass is approximately 4 times as strong as annealed glass of the same thickness. When breakage occurs, tempered glass shatters into small roughly cubical pieces. This well-known phenomenon is called “dicing”.

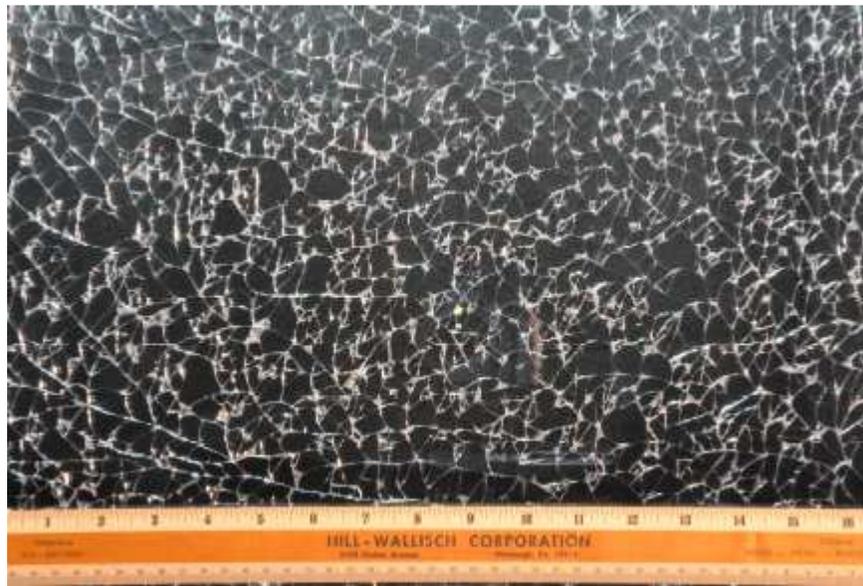


Figure 1. Breakage pattern of tempered glass.

The characteristic of the breakage of tempered glass reduces the likelihood of injury to people as there are no jagged edges or sharp shards. This is why tempered glass is commonly referred to as “safety glass”. Except for the change in the mechanical strength and breakage characteristic of the glass, all other properties of the glass remain unchanged from annealed glass including glass deflection and hardness.

Although tempered glass has higher strength compared to annealed glass, it has been long known in the glass making industry that tempered glass can undergo occurrences known as “spontaneous breakage” which is

described as when tempered glass breaks without any apparent reason after installation. The breakage has been traced to many causes which will be discussed.

Since tempered glass can withstand more forces before it fails, it is common that an initial crack in the glass may not have sufficient applied stress to propagate the crack completely. So even a relatively large crack in the glass may go unnoticed for some time before it propagates completely at which point it shatters and appears to have “spontaneously” failed.

Possible causes of initial cracking in tempered glass includes hard body impacts, weld splatter and glass-to-glass contact. Additional applied stress to propagate the crack completely to the point of failure can come from building movement, adhesives on glass and differential temperature. Building movement such as concrete creeping, swelling of frames from moisture, rotted frames or bent frames can cause the glass to bind against the frame at the perimeter which will apply additional internal stress to the glass. Adhesive such as epoxies used to glue items to tempered glass can apply additional stress to the glass when it stiffens. Differential temperature in tempered glass from radiant heating from the sun can also apply additional stress.

Spontaneous breakage has also been traced back to the presence of nickel sulfide stone at the center of the tempered glass. The presence of nickel sulfide in glass is also referred to as “nickel sulfide inclusion”. The inclusion of nickel sulfide is unintended and occurs at random during the process of manufacturing the glass. The nickel sulfide stones range in size between 0.076 mm and 0.380 mm in diameter. The inclusion is so small it cannot be inspected with the human eye.

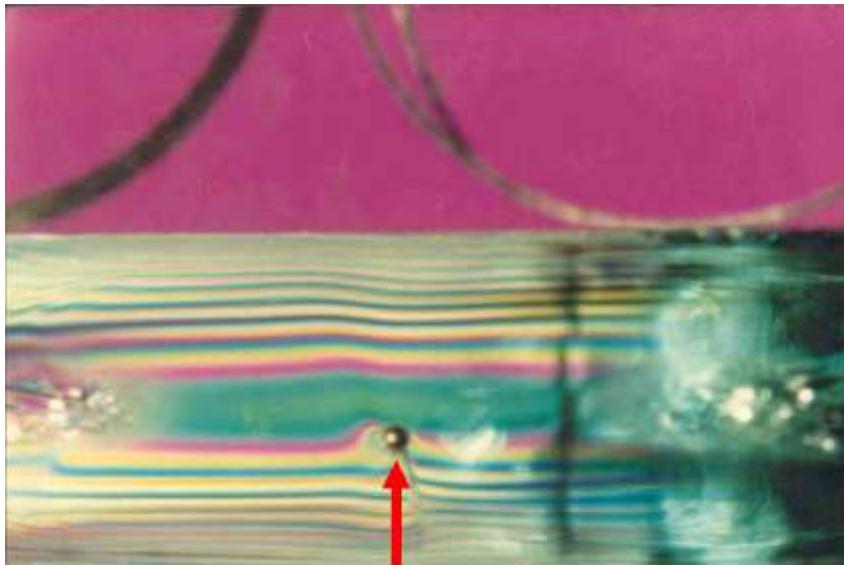


Figure 2. Nickel sulfide inclusion in tempered glass.

Studies have shown that most nickel sulfide inclusion that causes spontaneous breakage occurs within the first 5 years. Very few will cause spontaneous breakage after 10 to 15 years but it has been shown that it does occur. In recent studies, it has been estimated that the total failure rates of tempered glass due to nickel sulfide inclusion is approximately 1.73% which is very low. Therefore the chance of failure due to nickel sulfide inclusion after 20 years is very unlikely and can usually be ruled out.

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ARISS VALLEY GOLF AND COUNTRY CLUB

Thursday June 26th, 2014

**Shot Gun Start at
10:00am**

Once again the KW Chapter of the Ontario Adjuster's Association is pleased to be hosting their Annual Golf Tournament at Ariss Valley Golf and Country Club. Please join us for a day of golf and fund among your industry friends.

Please note that the Registration deadline is Friday June 6, 2014

Itinerary for Thursday June 26th, 2014

8:30 AM	Registration Opens - Breakfast
10:00 AM	Shot Gun Start
12:00 PM	As your foursome passes by the clubhouse stop in for lunch
4:00 PM	Approximate time for dinner

Players Golf Package

\$100 per member and \$125 for non-member based on per person membership Status. Fees include one round of 18 holes of golf, use of cart, breakfast, lunch and Dinner

Receipt of completed form and payment in full will reserve your spot on a first come, first served basis

Spaces are limited

***** please note that soft spikes and dress code will be strictly enforced *****

Sponsorship Opportunities \$100.00

Each year the KW OIAA works closely with a local Children's Organization this year we will be working with Kids Ability again.

***** All funds raised for hole sponsorship will go directly to Kids Ability *****

Directions

Ariss Valley Golf and Country Club is located just outside of Guelph on Road #86 (Elmira Road). They are #5700 on Road #86 North of Guelph between Marden Road and County Road 51.
519-824-1551

KW OIAA - JOHN MCHUGH MEMORIAL GOLF CLASSIC REGISTRATION FORM



ARISS VALLEY GOLF AND COUNTRY CLUB

Thursday June 26 - Shot Gun Start at 10:00am

Sponsorship Opportunities - \$100

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<input type="checkbox"/>	I would like to sponsor a Par 3	ccraig@archinsurance.com
<input type="checkbox"/>	I would like to donate a door prize	647-293-5436

*spots are filled on a first come, first served basis

** funds raised on sponsorship opportunities is donated to Golf Tournament Charity

Player 1

Name	OIAA Members \$100 Non-Members \$125 Based on per person membership status
Employer	Other Ticket Options
Telephone	Extra Breakfast, lunch and dinner tickets at \$40.00 per person
Email	
Member	Chapter
Extra Dinner ticket(s) \$28.00 per person	

Player 2

Name	Register by Friday ay June 6th, 2014
Employer	Payment Information
Telephone	Golf Total
Email	Extra Tickets Total
Member	Chapter
Total Amount Enclosed	

Player 3

Name	Contact Us
Employer	
Telephone	Cyndy Craig
Email	ccraig@archinsurance.com
Member	Chapter
647-293-5436	

Player 4

Name	Laura Potts
Employer	lpotts@tdinsurance.com
Telephone	226-750-9350
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Future Care Costs Analysis
Interdisciplinary File Reviews
Independent Medical Evaluations - Multidisciplinary*

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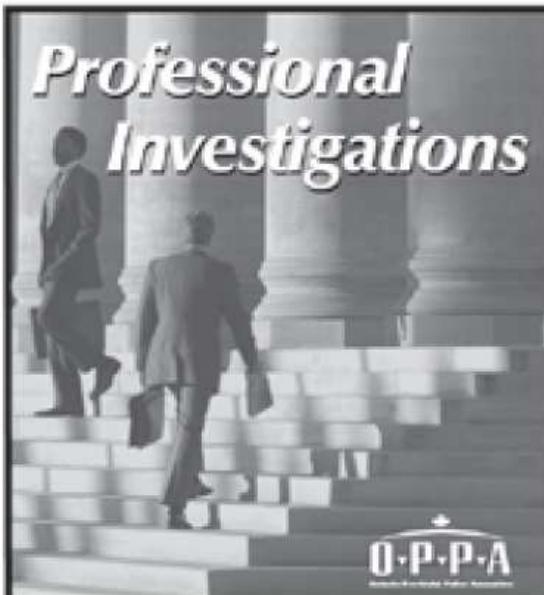
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Staplers or Sombreros

It's no secret that the cost of doing business in our local region isn't as economically feasible as it once was. If we can manufacture and deliver a marble for 10 cents in foreign countries why would we pay 1 dollar to do the same domestically? If the bottom line is only measured by morality, the answer would be simple. However, we have a different kind of math when it comes to business and regardless of how 'nice' we are that isn't going to keep the lights on. The question is; how much are we saving?

The hidden cost of discounts are beginning to expose themselves more and more and as a result risk management teams are forced to look into mitigating practices when it comes to the protection and 'duty of care' of their employees in both a nomadic and sedentary role. As we are aware, workplace violence and the organization's policies are effective anywhere the employee may be in their daily role, which would lead us to the conclusion that that includes anywhere in the world that an employee would have to travel to. The term 'executive protection' has now morphed into something that encompasses more than just a stretched limo and an Armani wardrobe. 'Duty of care' is a much more accurate term that simply means that anyone from a salesman, to a CEO requires some form of protection when travelling to foreign areas in a business capacity. The levels of protection and the pre-planning of course will fluctuate based on the importance of each role.

When the bad guys are looking to kidnap an employee of an organization they look at one main thing; how much are they worth? If a certain individual were to go missing, what would the damage be in terms of the organization's operations and image? Once these questions are assessed and answered, the worth of the employee can then be established.

Each region must be assessed continuously for any potential threats that could be harmful; anything from local crime to the political theme. In Mexico for example large, multinational corporations face a substantial cost of doing business due to the continuously changing risk landscape, which requires security executives and their organizations to be able to adapt quickly to changes. The nation is inundated by an ongoing war between drug cartels, which has to be taken into account in enterprise risk management plans, as do other crimes including cargo theft, extortion and kidnapping. Companies with operations in Mexico are forced to maintain a certain level of situational awareness and conduct detailed due diligence on third-party vendors and employees and as a result have had to include security and these costs are beginning to rise.

So whether we are using staplers in an administrative role at the local headquarters or donning the local customary clothing in the foreign areas we frequent, we exist under one brand, all things are equal including the protection we are entitled to.



TORONTO DELEGATE REPORT

The annual OIAA Curling Bonspiel was held at the Richmond Hill Curling Club on March 20, 2014, thanks to Rhu Sherrard and her committee for a great day on the ice.

Toronto OIAA Delegate Elections are coming and two Toronto delegate positions are open for the term of August 2014 – 2016. The elections are being held in conjunction with a great seminar held jointly between the OIAA and IBC. The topics are Weather Related claims and Regulatory Changes and the event runs April 9th at the Grand Hotel.

As there is no provincial conference in May this year, the OIAA is hosting a vendor appreciation night at the Blue Jays game on May 14th. The OIAA Open Annual Golf Tournament takes place June 4th this year at Deer Creek Golf and banquet facility. Registration for these upcoming events can be found on www.oiaa.com.

Without Prejudice Magazine is always looking for great articles so if you would like to become a published author please send me an article and I will submit it to the WP editorial team for consideration. We issue 2200 magazines 10 months of the year distributed throughout the province so the magazine is a great vehicle to share information and ideas. We are looking for articles approximately 2000-2500 words in length with content that is of interest to our readers and not self-promoting. A head shot and brief bio should also be provided prior to publishing.

Please take a moment to check out our New Website at www.oiaa.com and let us know what you think on Twitter @PresidentOIAA. You can also find the Ontario Insurance Adjusters Association on Facebook and stay connected.

If you would like more information or have any questions or concerns please do not hesitate to contact me at Michael.mcleod@crawco.ca.

Regards,

Michael McLeod, Chapter Toronto Delegate





What we hope not to see in 2014...



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SOCIAL CHIT CHAT

March 21st marked the first day of spring 2014. The weather did not cooperate, and on the same day, the North York Health and Rehabilitation Clinic plead guilty to charges of unfair or deceptive practices and were hit with a \$75,000 fine. The charges followed investigation into an auto insurance fraud ring dubbed "project whiplash". For more information visit <http://www.fscs.gov.on.ca/en/pubs/News-Releases/Pages/2014-03-06-toronto-rehab-fined.aspx>.

There is a lot going on in April for the Kitchener-Waterloo region insurance industry. On April 4th the Insurance Institute's Curling Bonspiel takes place at the Westmount Golf and Country Club. For registration information or event details visit the Insurance Institute's website at www.insuranceinstitute.ca.

Are you interested in becoming a member of the KW-OIAA? Elections and fun night is coming up on April 24th and there are several executive positions available. If you would like to run for a position please visit our website or bulletin for information on openings!

We look forward to seeing all of you at the election and fun night on April 24th!

Cheers,
Ashleigh Leon
Social Director

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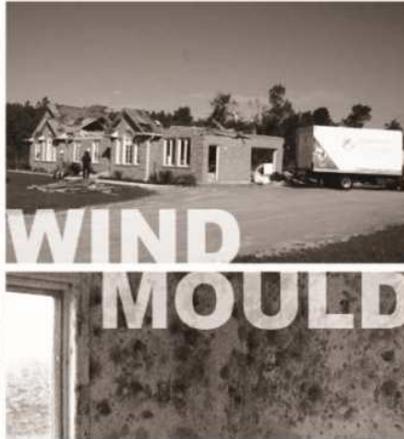
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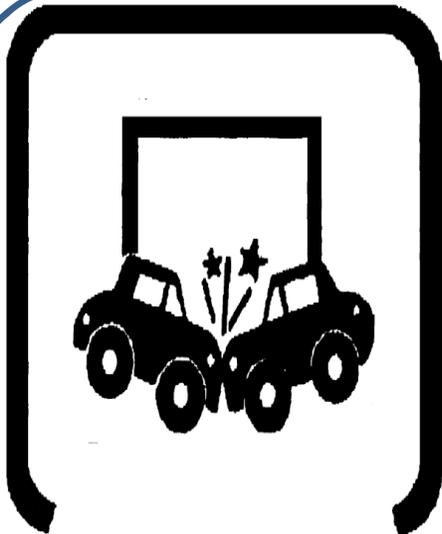
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Due Diligence in Managing Water Damage Or Mould Growth in Buildings

Mould growth in buildings and the possible adverse health impact on occupants has emerged as one of most pressing and common health and safety issues of the day. Employers, property managers and contractors understand they are responsible to protect the health and property of employees, clients and occupants. This article and the accompanying flowchart will assist these responsible parties in meeting current standards for managing water damage or mould growth in buildings.



Mould microorganisms are rapidly growing fungi, present throughout the natural world. Mould spores will always be present in buildings, whether blown in through windows or other openings, brought in by ventilation equipment, or tracked in with dust and dirt. The growth of mould can occur whenever susceptible building materials are wet for long enough to allow the spores to germinate and multiply. Common sites for mould growth include drywall, carpets, ceiling tiles, wood and wood products, and paper products. Once the mould spores are formed, they are readily airborne and will remain a health hazard until the growth is removed. This is the case even when the mould growth is within wall cavities or other concealed locations. The most common symptoms reported from mould exposure in buildings are running nose, eye irritation, cough, nasal congestion, aggravation of asthma, headache and fatigue. There is also a risk of fungal respiratory infections in occupants who have a compromised immune system. There is no safe level of airborne mould exposure in buildings, that is an airborne level without a risk of adverse health effects among at least some of the occupants.

Several professional bodies have issued standards in the past few years on the assessment and remediation of mould growth in buildings. The most significant of these are given below.

1. *Guidelines on Assessment and Remediation of Fungi in Indoor Environments*, New York City Department of Health, 2008. The New York City guidelines are widely quoted by public health departments and other regulatory agencies. The Ontario Ministry of Labour refers employers to these guidelines in a Hazard Alert on Mould in Workplace Buildings issued in 2000.
2. *Construction – Related Nosocomial Infections in Patients in Health Care Facilities: Decreasing the Risk of Aspergillus, Legionella and Other Infections*, Health Canada, 2001; *Infection Control during Construction, Renovation and Maintenance of Health Care Facilities*, CSA Standard Z317.13-07, Canadian Standards Association, 2007. These two Canadian standards give precautions for construction or restoration work in hospitals and health care facilities, to reduce the risk of patients acquiring mould infections or infections with Legionella bacteria.
3. *Standard and Reference Guide for Professional Water Damage Restoration*, 3rd Edition, US Institute of Inspection, Cleaning and Restoration, 2006. The IICRC provides training and certification for restoration

contractors. The S500 Standard emphasizes steps to be taken to protect building occupants from the risks of contaminated flood water or harmful microbial growth.

4. *Mold Remediation in Schools and Commercial Buildings*, US Environmental Protection Agency, 2001. The EPA standard details procedures to be followed in remediating mould growth. It also gives useful advice on the effectiveness of drying efforts and the time that finishes can remain wet before mould growth might occur.
5. *Mould Abatement Guidelines*, Environmental Abatement Council of Ontario, 2nd Edition, 2010. EACO, in consultation with the Ontario Ministry of Labour, developed a code of practice for mould abatement, incorporating on the recommendations of various standards and industry practices in Ontario. The Ministry of Labour accepts the EACO guidelines as meeting the due diligence requirements of the Occupational Health and Safety Act.
6. *Mould Guidelines for the Canadian Construction Industry*, Canadian Construction Association, 2004. The CCA guidelines give advice on prevention of mould growth on construction projects, demolition precautions and legal and insurance considerations, among other issues. The guidelines also give precautions for mould remediation (Levels I, II and III plus HVAC abatement).
7. *Fungal Contamination in Buildings: Health Effects and Investigation Methods*, Health Canada, 2004. This Health Canada update of a 1995 guideline presents a literature review on health effects of indoor mould and concludes that living or working in mouldy buildings is harmful to health. It gives detailed recommendations for mould investigations and provides general advice for abatement and supervision of abatement.

The flowchart summarizes the major requirements of the standards listed above, as well as some general responsibilities under the Ontario Occupational Health and Safety Act pertinent to this work.

Are occupants experiencing adverse health effects?

At the outset, the responsible party should be attentive to the health complaints and the health status of the occupants. The New York City protocol recommends that occupants who are experiencing significant adverse health effects that might be related to mould exposure be advised to see a doctor. It may be necessary to re-locate susceptible persons. In a workplace building, the Ministry of Labour Sensitive Worker policy might be applied in such a case. Evacuation of a building would only be warranted in cases of widespread mould related symptoms (preferably physician confirmed) and widespread mould contamination. In most cases, occupants can safely remain in the building during remediation. However, both the New York City Protocol and the IICRC S500 standard state it may be necessary to re-locate susceptible individuals until the remediation is complete.

Does the affected area contain possible asbestos-containing building materials (ACM)?

Asbestos may be present in common finishes in older buildings, such as mechanical insulation, fireproofing, smooth and textured plaster, vermiculite insulation, ceiling tiles or drywall joint compound. Ontario Regulation 278/05 sets standards for the day to day management and safe disturbance of ACM. Prior to any disturbance, check the asbestos inventory for the building, required by the regulation. If information is incomplete or not available, samples must be taken for laboratory analysis or the material presumed to be ACM. Note that O.Reg. 278/05 requires at least 3 and in some cases up to 7 samples of a material to confirm asbestos is not present. Type 1, 2 or 3 work procedures will be required for any disturbance of confirmed or presumed ACM. Waste must be managed and disposed of in accordance with Ontario's waste management regulation, O.Reg. 347.

Is the building a hospital or health care facility?

Any work in a hospital or other health care facility has the potential to release settled mould spores, or Legionella bacteria in plumbing systems. If these spores or bacteria are not contained, susceptible patients might develop fungal infections or Legionnaires' disease, a bacterial pneumonia. Note that mould spores are presumed to be present in all settled dust so that a risk of infection from airborne mould is present even if there is no visible mould growth. If mould growth is present, the risk is even greater. All work in a health care facility should be performed under the direction of infection control personnel, following Health Canada and CSA Z137.13 guidelines.

Contamination with sewage or other highly contaminated water?

Where a building has been contaminated with water containing microorganisms harmful to health (sewage, and also flooding from rivers and streams), Category 3 work practices described by the IICRC S500 standard apply. The contractor should be trained and experienced in such work and have appropriate liability insurance. The contaminated area should be enclosed, and the ventilation systems turned off and sealed. It may be advisable to install portable filtered exhaust fans to put the area under negative pressure.

All finishes and contents affected by the flood should be sealed in plastic bags and disposed of. The structure should be disinfected and dried as quickly as possible, and the contractor should provide a written report documenting the success of the water restoration including both relative humidity and surface moisture readings. The IICRC Standard recommends a 3rd party health and safety consultant to oversee the work, at least where harmful microbial contamination is present, where there are susceptible individuals present, or where there are public health issues.

Newly reported water damage?

Where a water episode is reported early, an immediate response and professional water restoration practices can prevent or limit mould growth and allow most of the finishes and contents to be saved. Both the New York City protocol and the US EPA standard allow a 24-48 hour grace period during which effective drying will prevent mould growth. Contractors trained in structural drying methods should be employed and should provide written proof of a dry condition at completion. Note that some porous materials may not be able to be successfully dried, even with the best of efforts. The EPA standard advises that ceiling tiles, cellulose and fiberglass insulations cannot be reliably dried with current methods. Once wet, they should be discarded. Building assemblies with multiple adhered layers that will be difficult to dry quickly (e.g., two layers of drywall, wood paneling on drywall) should be discarded as a proactive measure.

Report of old water episode or signs of mould growth present?

Signs of water damage not properly corrected, musty odours, or reports of potentially mould-related health effects should prompt an investigation for possible mould growth. A professional experienced in mould investigations, preferably with liability insurance including mould hazards, should perform the investigation. The investigation will include an inspection of the property, often with intrusive testing to examine hidden areas, and in some cases might involve air sampling. The investigation should report on the presence and extent of mould, if found, where possible comment on the likely cause of the growth, and give recommendations for remediation.

Is the property a workplace?

In Ontario, the Ministry of Labour considers mould growth in general buildings to be a workplace hazard. The Ontario Occupational Health and Safety Act requires the employer to notify the Joint Health and Safety Committee or the Safety Representative of any investigation for health and safety, including investigations for mould growth. The Act also allows a representative of the Committee to observe the beginning of such testing. The JHSC or Representative must be copied with all reports provided to the employer. Similar legislative requirements apply in most other Canadian jurisdictions.

Once mould growth is confirmed?

Remediation should begin as soon as possible. The CCA and EACO guidelines are recommended as the most up-to-date and detailed procedures. Susceptible occupants (infants, elderly, immune-compromised, etc.) should be relocated from the area of work and perimeter of the work area during abatement. The occupants should be informed of the work to be performed and given information on the methods to be used. In a workplace building, it is advisable to inform the JHSC of the remediation work, and to provide the committee with any inspection reports. The abatement contractor should be trained, experienced and carry mould remediation insurance. Health Canada recommends that quality assurance measures be applied, typically an independent health and safety professional to oversee the work. Environmental testing, usually air sampling, is performed at completion as part of the quality assurance measures.

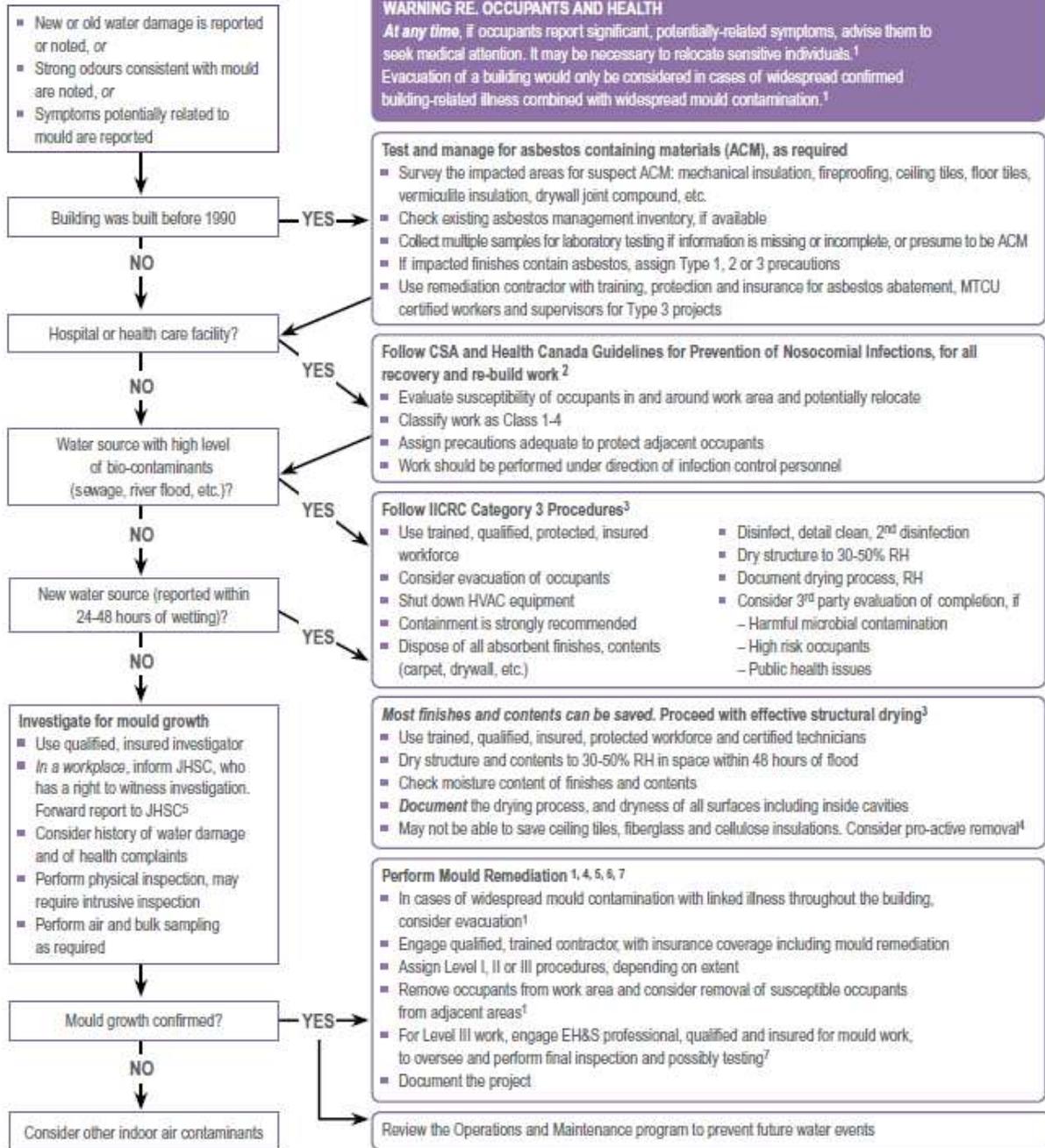
This article is modified from an article published in the May 2002 edition of Without Prejudice, published by Ontario Insurance Adjusters Association.

Bruce Stewart CIH, ROH, is a Senior Vice President at Pinchin Environmental Ltd. of Mississauga, Ontario (bstewart@pinchin.com).

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Government Proposes changes to the Accident Benefits Dispute Resolution System: Arbitrations Leaving FSCO and Coming to a Ministry of the Attorney General near You



Authored by:

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With the seemingly insurmountable mediation backlog at FSCO now making its way through the arbitration process, the government has announced its intentions for overhauling the accident benefits dispute resolution process. The government announced in a news report on March 4, 2014 that it would be putting forward legislation that, if passed, would change the dispute resolution process. The recommendations for the changes to the dispute resolution system were contained in the Ontario Automobile Dispute Resolution System Review, with the final report released by J. Douglas Cunningham on February 18, 2014.

Mr. Cunningham reviewed the system and heard from stakeholders via written submissions and in-person meetings. Mr. Cunningham outlined seven principles for the dispute resolution system:

1. The resolution process should have quick access without a need to go to court to facilitate timely treatments if determined to have been improperly denied;
2. The resolution process should be proportional and accommodate different processes depending on the complexity of the case;
3. The resolution process should be accessible to all claimants, whether represented or not, and claimants should not have concern about financial resources;
4. The resolution process should provide a reasonable level of certainty and predictability, so insurers can set proper reserves and charge premiums reflective of risk, and claimants can understand the coverage of their policies;
5. The resolution process should be quick and simple with minimal amount of paper;
6. The resolution process should be cost-efficient and reflect the economic imbalance between claimants and insurers, and the cost structure should discourage abusing the system; and,

7. The resolution process should promote a positive culture among stakeholders and should encourage early resolution of disputes.

During the stakeholder meetings, Mr. Cunningham realised how polarizing the system had become. The insurance industry blamed the adversarial nature of disputes on the plaintiff bar, while the plaintiff bar blamed it on the practices of the insurance industry. Mr. Cunningham concluded that neither was an accurate portrayal of the current system. Mr. Cunningham recognized factors such as the elimination of the DACs in 2005, the Reduction of available benefits in 2010 and the government's promotion of anti-fraud measures in 2011 as having played a part in creating the current dispute resolution environment.

When asked, the stakeholders did not have a preference for the dispute resolution process being in the public or private sector. The stakeholders agreed it was more important to ensure that a new tribunal is staffed with knowledgeable adjudicators with expertise in the current and older regimes. There was a shift in preference after Mr. Cunningham's interim report to separate FSCO's adjudicative and regulatory functions. Mr. Cunningham reported that under his proposal, the new tribunal would be better positioned to maintain its independence and neutrality. He believed that the tribunal required considerable oversight, and a public sector tribunal would be the best option. Ultimately, Mr. Cunningham proposed the dispute resolution services be moved from FSCO to the Ministry of the Attorney General's (MAG) license appeal tribunal.

Mr. Cunningham recommended that the option of taking an accident benefits dispute to the court system should be eliminated. He noted that a number of other administrative tribunals do not permit a claimant to bring a court action. He also reported that judges and the court system do not have sufficient expertise about the accident benefits system, an expertise that is at the core of his recommendations regarding a new dispute resolution process. To promote predictability, decisions would continue to be published and should be used as guidance (although not binding) for future decisions.

The recommendations for the new dispute process through the MAG include mediations now being a part of a settlement meeting, essentially creating a combination of the current arbitration pre-hearing meetings with the mandatory mediations and optional neutral evaluations. Mr. Cunningham also recommended that strict timelines be established. He proposed that a settlement meeting (mediation) be held within 45 days of an application being accepted, and if there are no dates available, fees could be reduced or waived. Mr. Cunningham found that the last time the neutral evaluation option was used at FSCO was in 2008. He recommended that the concept of providing a non-binding opinion through neutral evaluations should be applied to the proposed settlement meetings.

One recommendation Mr. Cunningham made based on the reports from stakeholders was to create different streams in the dispute process based on the quantum of benefits in dispute or the complexity of issues. After a settlement meeting, an application for arbitration would be submitted, and an arbitrator would determine the appropriate stream for the dispute. That is to say, a dispute over a single denied treatment would be expected to be heard in a more expeditious manner than a dispute of the determination of catastrophic impairment.

There would be three possible streams in the dispute resolution process: paper reviews, expedited hearings, and full hearings. Paper reviews would be conducted for disputes under \$10,000.00 involving medical and rehabilitation benefits, and determination of whether injuries meet the minor injury definition. Full hearings would be conducted for catastrophic impairment determinations, and questions of entitlement to 24 hour attendant care or post-104 income replacement benefits. All other disputes would be held by an expedited hearing. Expedited hearings would take place within 60 days of receipt of application, would last no longer than one day, and would not be subject to appeal. Written decisions would be released for paper reviews and expedited hearings within 30 days. Full hearings would be heard within 90 days of the application, and the length would be determined by the arbitrator. Written decisions would be released within 45 days. Appeals would be heard by a single Superior Court judge. There would be restrictions on the length of expert reports and briefs submitted by the parties in all cases.

A fee schedule for legal costs would be established for the different streams in the process, allowing counsel to charge higher fees on more complex disputes. Legal fees would also be recoverable at the settlement meeting, and a reduced fee schedule would apply for cases settled before a hearing. Additional charges could include a fee against a party requesting an adjournment if there are not exceptional circumstances. Additionally, while the concept of costs being awarded to the successful party would

remain, costs would not be awarded to a successful party if they turned down an offer to settle that was greater than the award made by the arbitrator. An issue we often run into here in K-W and other places outside the GTA, is not having the opportunity to conduct mediations and pre-hearing discussions in-person. Mr. Cunningham has recommended that settlement meetings should be conducted through video conferences, instead of by telephone, when in-person meetings are not feasible. Additionally, if an unrepresented claimant does not have access to Skype and video-conferencing technology, Mr. Cunningham recommended those claimants should be encouraged to attend in-person meetings. Mr. Cunningham identified that the current system is centralized at FSCO in Toronto. He noted that the system should be decentralized, or adjudicators need to make better use of technology. This seems to suggest that in-person meetings should be scheduled in MAG offices around the province, if the adoption of videoconferencing is not accepted.

Interestingly, although Mr. Cunningham's suggestions are aimed at making the dispute resolution process more efficient and accessible, he does not appear to believe it is the proper avenue for discussing full and final settlements of all claims for benefits, including future medical/rehabilitation benefits. Mr. Cunningham recommended that full and final settlements of claims would not be permitted until two years after an accident. The timelines in his recommendations for the completion of simple disputes would take 5.5 months from start to finish. While complex catastrophic impairment disputes and post-104 income replacement benefit disputes may be settled during the process, the determination of minor injury and other small medical/rehabilitation benefit disputes conducted within in the first two years of the accident would be prohibited from full and final settlement negotiations during the dispute resolution process.

If the government follows all of Mr. Cunningham's recommendations, it will be left to be seen if the MAG, along with the current plaintiff and defence bar, are capable of completing complex disputes like determinations of catastrophic impairment with restricted amounts of evidence (both written and in-person), and only take 7 months to complete the dispute process from start to finish. It will also be left to be determined if the plaintiff bar will commence the dispute process early in the claim process, as is intended with Mr. Cunningham's recommendations, leaving the parties unable to consider full and final settlements of claims during the dispute resolution process. We are hopeful that the MAG will follow Mr. Cunningham's recommendations, and settlement meetings under the new process will take place, in-person, outside of the GTA.



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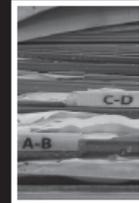
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Structural Impact of Inadequate Roof Ventilation

Carl Lankinen, B.A.Sc., M.A.Sc., P.Eng.

Not many of us put too much thought into our roofs. Like many things in our lives, roofs don't get much attention until something goes wrong. We may look up on occasion to see that the shingles are still there and as long it is not leaking everything is good. Yes, the roof on your house serves to keep the weather out but this simple purpose belies a more complicated system at work.

As background, let's first review the common components of a roof. Every roof has a water resistant layer such as shingles or a steel deck which is supported by a structure that may consist of; sheathing, strapping, rafters, trusses, collar-ties, a ridge beam, ceiling joists and interior finishes. In addition, your roof will have some building science components such as insulation and a vapour barrier. The structure serves to support the roof against wind and snow. The insulation and vapour barrier serve to maintain a healthy and comfortable environment in the home while addressing energy efficiency concerns.

Depending on the style of your home, you may have an attic or your roof may be vaulted and framed with rafters alone.

A critical component that I left out of the list above is adequate attic ventilation. We've all seen the mushroom or ridge vents on our roofs and the perforated soffits but why is it important to have a ventilated roof?

Since our attics are not climate controlled spaces they experience dramatic temperature and humidity shifts during the day and across the seasons. Warm air has more energy and can store more water vapour which is measured as humidity. A temperature change from warm to cold can cause this water vapour to condense on cool surfaces. This is the same as you pouring cold water into a glass during the summer. You immediately see water condensing on the outside of the glass. This water is the humidity in the warm air condensing on the cool surface of the glass. The same phenomenon can occur in attics with no or poor ventilation.

The ridge, soffit and mushroom vents on your home serve to keep the air flowing in your attic. This constant flow of air ensures that the environment in your attic is similar to that of the outdoors and minimises the likelihood of condensation issues occurring.

Moisture accumulation in the attic can cause a number of issues including; damage to drywall finishes, mould growth, corrosion of metal, wood rot, and damage to shingles. Yes asphalt shingles require adequate attic ventilation to prevent them from becoming damaged. In fact, steel roofing and shingle warranties can become void if proper attic ventilation is not provided.

In recognition of the importance of adequate attic ventilation, the Ontario Building Code (OBC) specifies the minimum amount of attic vents required in a roof. The OBC recommendations are based on a typical roof of a small building, such as a home, that needs to handle the expected humidity and temperature changes associated with the local climate. These recommendations are intended to account for an attic that is used for no other purpose than an unconditioned air space. Any deviations from the standard use of an attic can dramatically alter the effectiveness of the OBC recommended venting and can cause an attic to become significantly under ventilated and prone to moisture related issues.



So what form can these deviations on the use of an attic take? Well, some can be accidental while others are quite intentional. An accidental deviation would include improperly installed or missing vapour barrier or a missing attic access hatch. Either of

these two cases could cause humid warm air from the building to penetrate into the attic. This influx of air would exceed the design expectations of the OBC and could cause moisture related issues.



Intentional deviations on the use of the attic would include the use of the attic as part of the building ventilation system. This would involve using the attic space as a plenum. A plenum is a chamber used to distribute air to other areas of a building. Using an attic as a plenum would force warm humid air from the building into the attic space. This use of the attic would be the worst case scenario since it would provide large amounts of warm humid air that can condense on the surfaces of the attic. This excess moisture can become a particular cause for concern for trussed roofs where the steel truss connector plates can corrode and fail. Depending on the use of the building the amount of condensation occurring in the attic can be significant. For example, a typical home would produce far less attic condensation than a barn used to house a large number of

animals. If the barn has a manure storage area below it, the effects can be further amplified due to the abundance of water but also due to other more corrosive gases that can be present such as hydrogen sulphide.

I've been in a residential attic with a steel roof during the winter where it was literally raining inside. Why? Well, contractors were working in the attic and had left the attic hatch open. As a result, the warm humid air inside the home was rushing into the attic and condensing on the underside of the steel roof. As the condensed water accumulated it began dripping from the wood strapping like rain in a forest.



Attics can be used to route ducting for heating ventilation and air conditioning (HVAC) systems since the ducting prevents the air from escaping into the attic. This is dramatically different from using an attic as a plenum.

In summary, when constructing a building with an attic, the recommended minimum amounts of attic ventilation specified by the OBC will help ensure that the attic space is sufficiently ventilated to prevent moisture issues from occurring. To minimise moisture related issues in attics they should not be used as plenums but they can be used to route ducting for HVAC systems.

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Mr. Carl Lankinen has acted as a structural expert on a number of expert reports for insurance companies and law firms. He has opined on a variety of issues including house fires, structural collapses, tornado damage, foundation underpinning for environment repairs and wind damage. He has also completed a number of peer reviews of drawings, calculations, reports, buildings and components. To this end, he has qualified as an expert witness while testifying at a Professional Engineers of Ontario tribunal.

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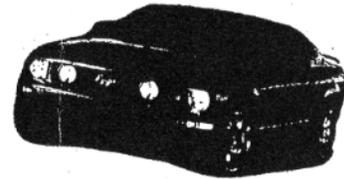
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