

MARSH

Tuesday May 29th, 2007

Mould: Exposed to Claims – Uninsured – What to Do Next?

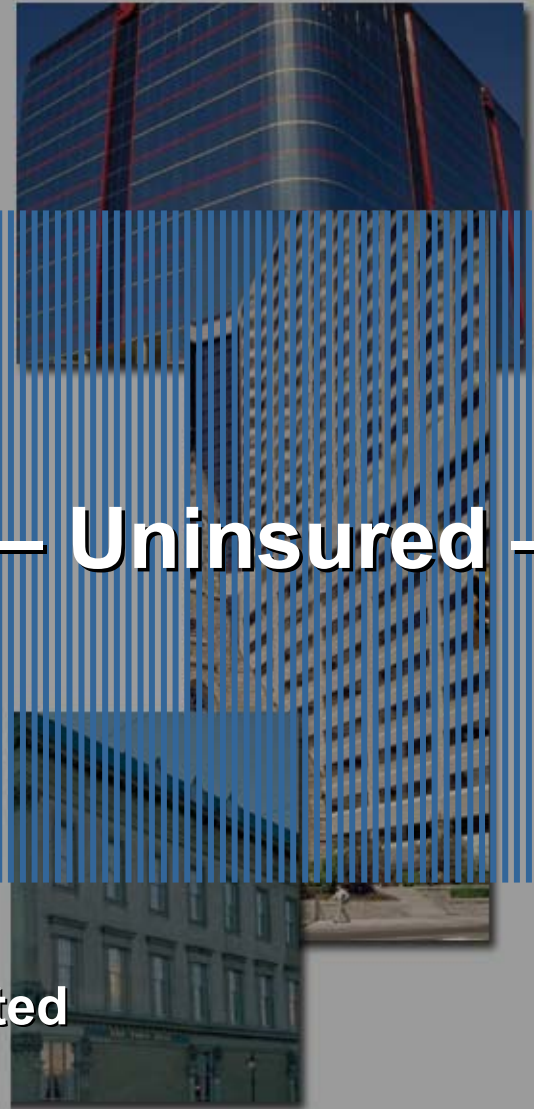
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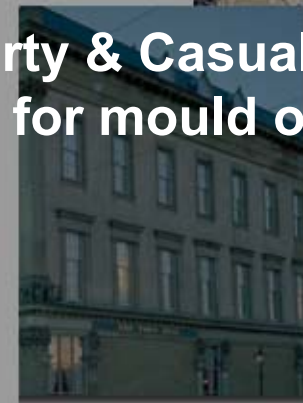
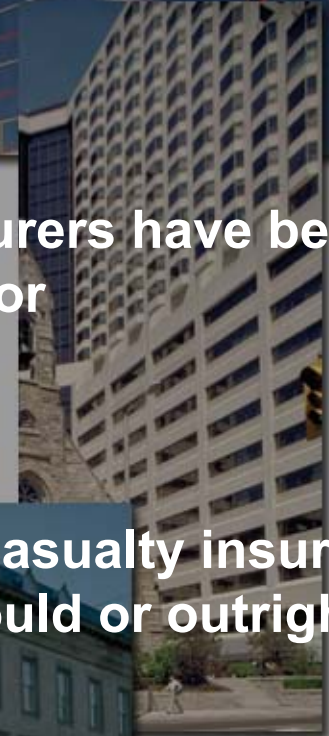


Marsh & McLennan Companies



Commercial Insurance & Mould – Availability of Coverage

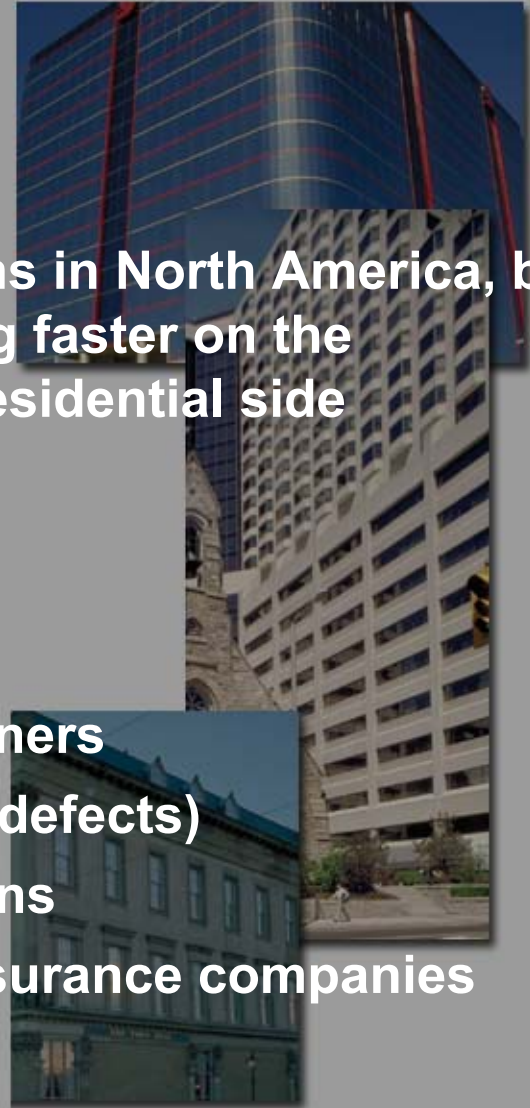
- Historically mould was not an excluded peril in commercial property or general liability policies;
- Given the influx in mould claims since 1999, insurers have been forced to consider their underwriting positions for insuring/excluding mould loss;
- Result has been the majority of the Property & Casualty insurers taking a firm position to restrict coverage for mould or outright exclude it.



Mould Claims – Current Trends

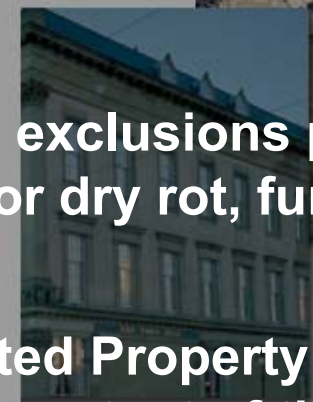
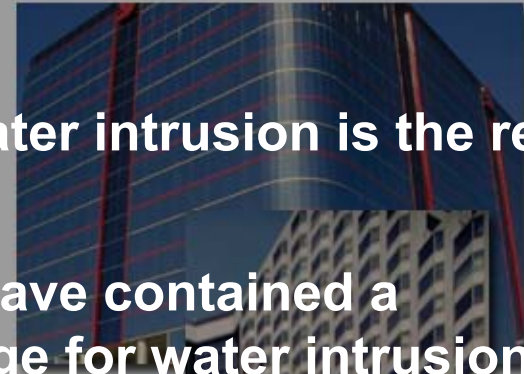
- **Number of claims continues to grow:**
 - Increase of over 1,300% since 2000
 - ~20,000 unresolved homeowners claims in North America, but the claims reporting trend is increasing faster on the commercial front than on the private residential side

- **Number of lawsuits continues to grow:**
 - Estimated at well over 10,000 lawsuits²
 - 10% are against former building owners
 - 20% against builders (construction defects)
 - 20% against homeowner associations
 - 50% are bad faith claims against insurance companies



Coverage for Mould Related Claims - Commercial Property Policy

- Mould is a symptom of a greater issue, water intrusion is the real culprit
- Historically, “All Risk” property policies have contained a number of exclusions that restrict coverage for water intrusion related perils:
 - Wear & Tear
 - Gradual Deterioration
 - Faulty Workmanship
 - Contamination
- Currently, Insureds are seeing additional exclusions pertaining specifically to mould, moss, mildew, wet or dry rot, fungi, decay, bacterial infestation etc.
- Consideration of coverage for mould related Property Damage/Business Interruption rests in the extent of these specific mould exclusions



Environmental Specialty Marketplace

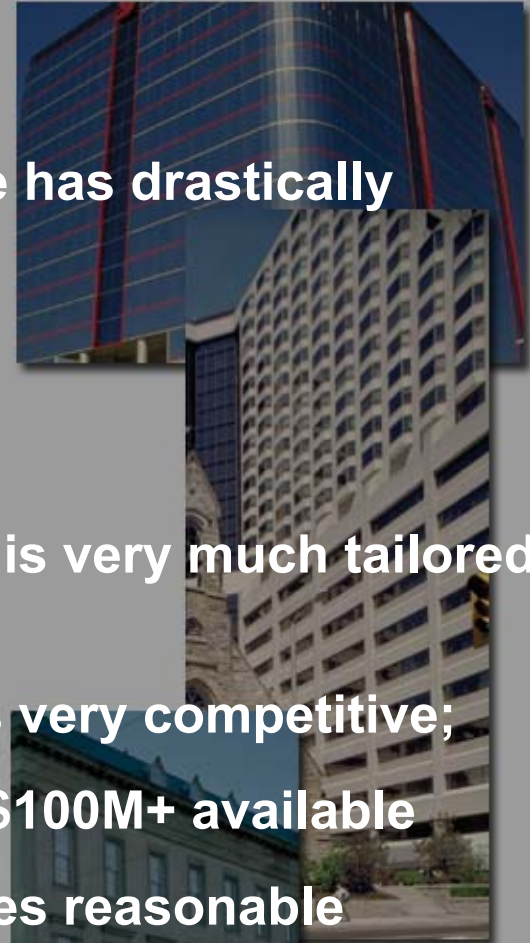
- The environmental insurance marketplace has drastically changed in recent years

5-7 Years Ago

- Coverage narrow
- Premiums high
- Capacity low
- Deductibles high
- Few dedicated markets
- Onerous underwriting process

Today

- Coverage is very much tailored to fit the risk
- Premiums very competitive;
- Limits of \$100M+ available
- Deductibles reasonable
- Introduction of new markets
- Experienced insurers more comfortable with underwriting process



Providers of Environmental Insurance – Who are the Players?

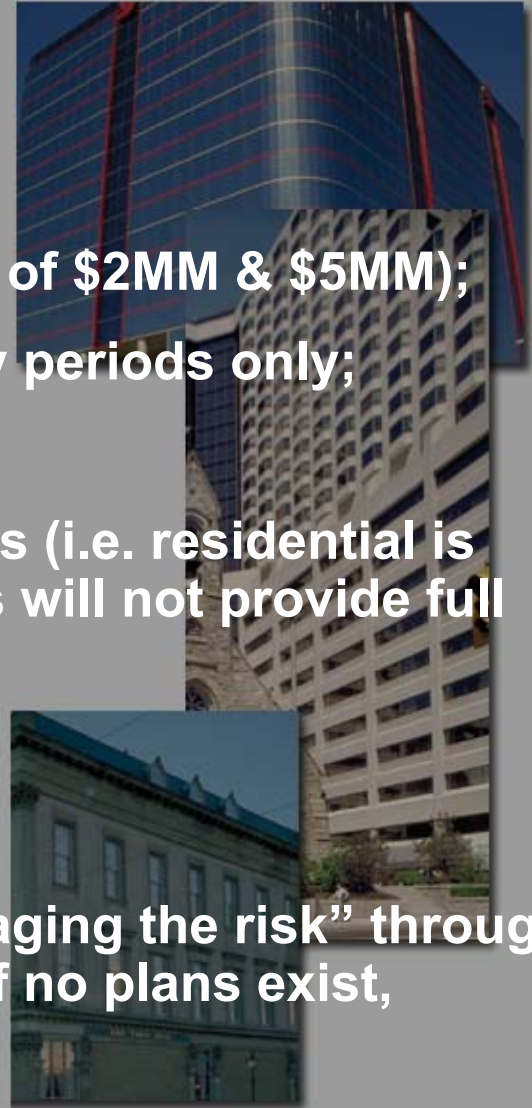
- **AIG Environmental**
- **XL Environmental**
- **Zurich Canada**
- **ACE Environmental Risk**
- **Chubb Environmental Solutions**
- **Liberty International Underwriters**
- **Elliott Special Risks**
- **ENCON**
- **Quanta**



Underwriting Process – Appetite for Writing Mould Related Loss

Underwriters still being very cautious:

- Offering limited capacity (often sub-limits of \$2MM & \$5MM);
- Some markets are limited to annual policy periods only;
- Requiring higher deductibles/SIRs;
- Only available on certain class of business (i.e. residential is considered “high risk” and many insurers will not provide full coverage)
- Greater underwriting scrutiny;
- Requiring written “Best Practices” Plan;
- Insured must demonstrate they are “managing the risk” through proper prevention and mitigation plans. If no plans exist, coverage will not be adequately provided.



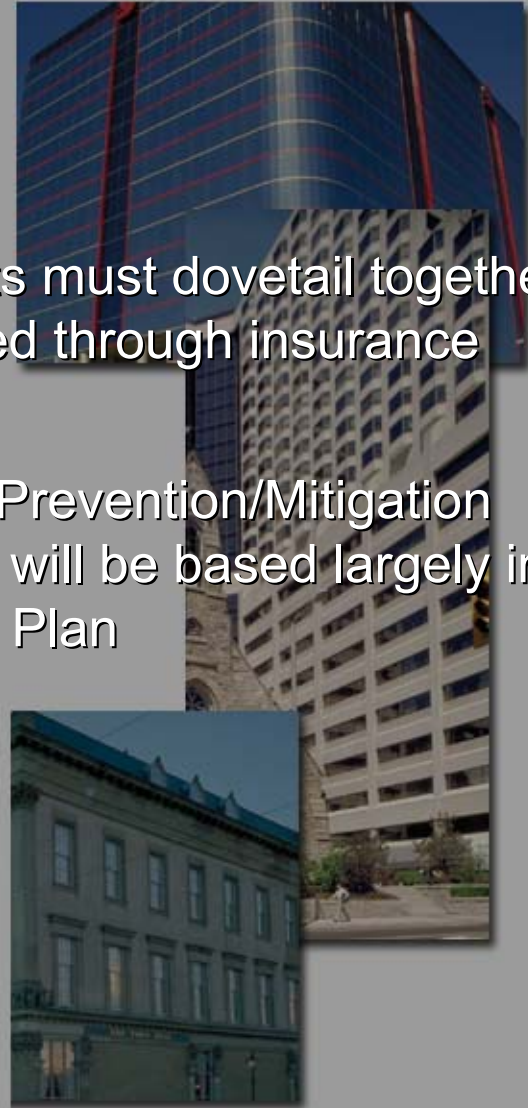
Underwriting Information Required

- PPL application
 - Supplementary Indoor Air Quality Questionnaire
- Full Description of Operations
- Financials
- Disclosure of Known Conditions/Past claims
- Mould a/o Water Intrusion O&M Plans
 - Written “Best Practices” Guideline for:
 - Maintenance and inspection protocols for *preventing* water and moisture incursion
 - Procedures for *mitigating* water and moisture incursion
 - Define roles and responsibilities at all levels
 - Proper communication with interested parties



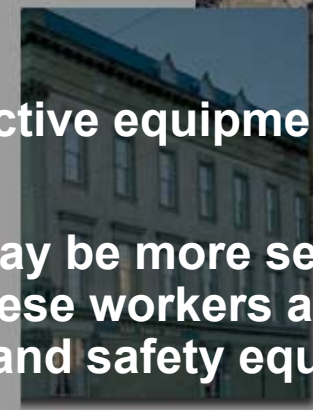
Mould/Water Intrusion Management Plans

- Risk Management and Risk Transfer products must dovetail together. Mould is an exposure that cannot be managed through insurance alone;
- Insurers have been specific in what a Mould Prevention/Mitigation Plan should include. Availability of coverage will be based largely in part on engineering acceptance of the Mould Plan



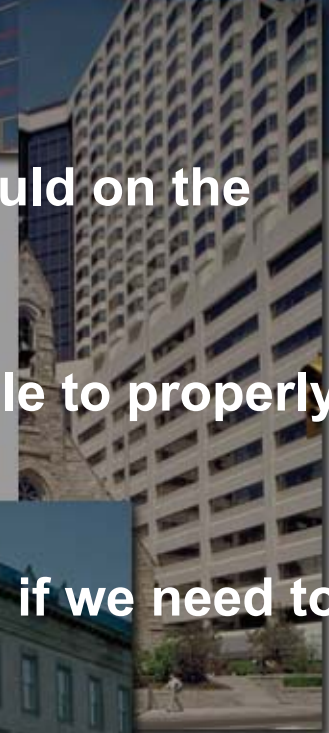
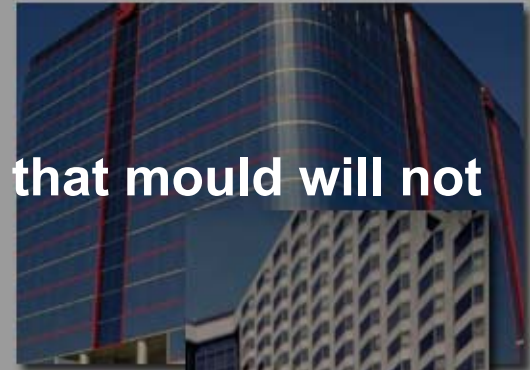
Identifying, Managing and Reducing Mould Related Risks

- In order to identify, manage, and reduce your business's mold-related risks, start by asking yourself the following questions:
 - ❖ Is our staff exposed to mould in the workplace? If so:
 - ✓ What steps have we taken to decrease mould exposure among our staff?
 - ✓ Do we need to inform our staff of the potential health risks associated with mould?
 - ✓ Do we need to provide our staff with protective equipment?
 - ✓ Some staff members who have allergies may be more sensitive to mould exposure. Do we need to identify these workers and provide them with additional information, training and safety equipment?



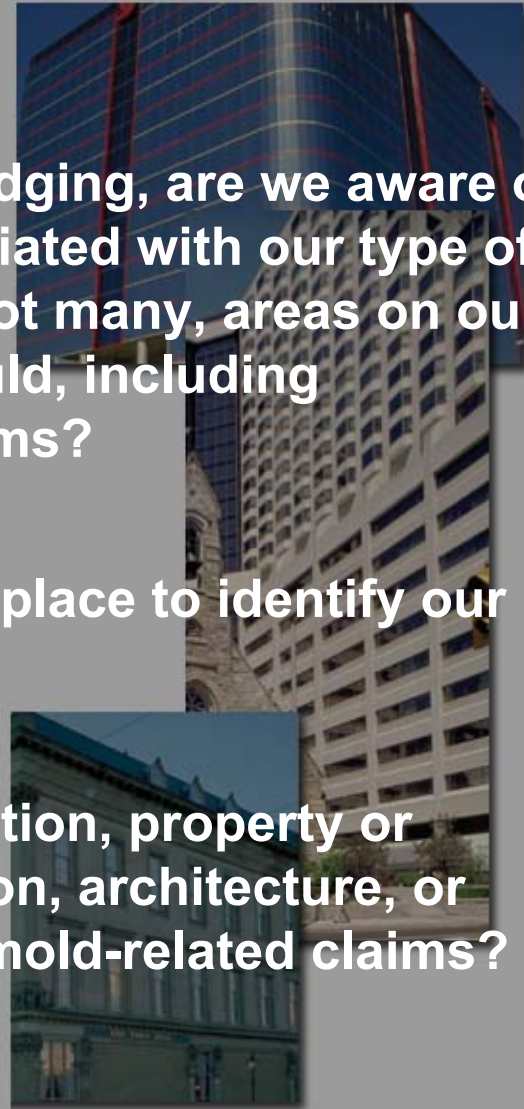
Identifying, Managing and Reducing Mould Related Risks cont'd

- ❖ Have we taken the proper steps to ensure that mould will not grow on our property in the future?
 - ✓ Do we have procedures in place to detect mould on the premises?
 - ✓ Do we have trained staff and supplies available to properly kill and remove mould?
 - ✓ Will we have to suspend business operations if we need to remediate mould?
 - ✓ Are we prepared to absorb the costs of temporarily halting business operations?



Identifying, Managing and Reducing Mould Related Risks cont'd

- ❑ As a hospital, hotel, or other type of lodging, are we aware of the increased likelihood of risks associated with our type of property, considering that several, if not many, areas on our premises are particularly prone to mould, including bathrooms, kitchens, and HVAC systems?
- ❑ Do we have a team of professionals in place to identify our exposures to mold-related risks?
- ❑ As a business in contracting, construction, property or building management, HVAC installation, architecture, or construction supply, are we liable for mold-related claims?



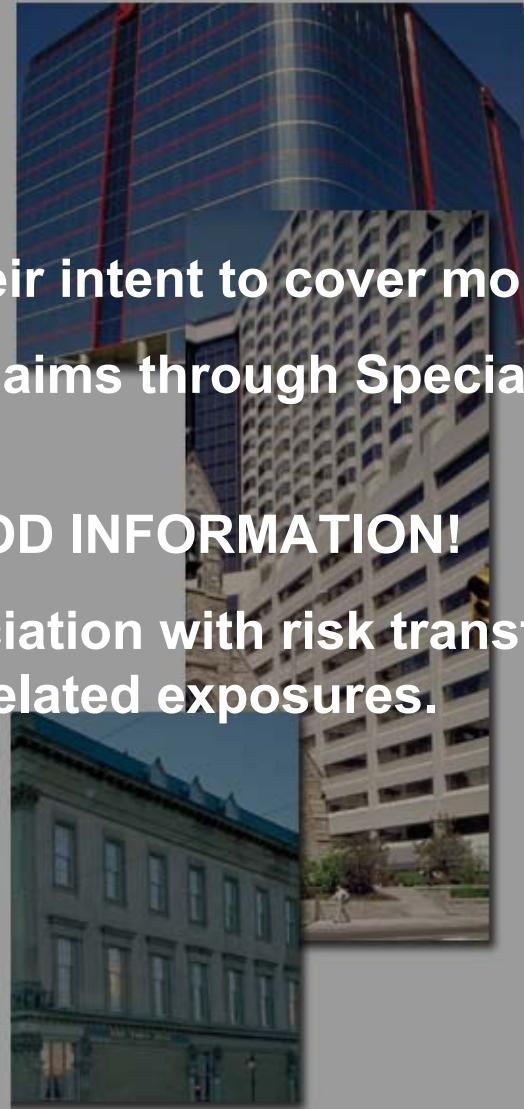
Identifying, Managing and Reducing Mould Related Risks cont'd

- Do we have a strategy for managing suits brought against us?
- Do we understand our current and old insurance policies regarding mould related claims?
- Are we aware of the costs associated with claims litigation? Do we have a plan in place to reduce such costs?



Conclusions

- Insurance claims are on the increase
- Many policies exclude, or are vague in their intent to cover mould
- Insurance is available for mould related claims through Specialty Environmental Insurers.
- Insurer's require lots of information - **GOOD INFORMATION!**
- Solid risk management practices in association with risk transfer solutions is vital when managing mould related exposures.



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