

Excess coverage protects growing real estate practices

Is your real estate practice growing? That's a good thing. But keep in mind that your risk exposure may be growing along with it.

A hot market can mean a higher transaction volume, unconditional offers, and shorter closing times. All of these factors place pressure on lawyers, and can increase the chance of an error in even the best-run practice. At the same time, growth in land values can mean that if you do make a mistake, the resulting claim could easily hit the limit of your professional indemnity coverage. If you haven't already done so, it may be time to consider whether excess insurance is appropriate for your practice.

Despite years of reports that the real estate market "bubble" (in the areas in which it exists) is about to burst, both real estate values and market activity remain high. Year after year, real estate prices continue to break records. While some steps have been taken to correct the market, such as the 2015 raising of premiums on high loan-to-value mortgages by the Canada Mortgage and Housing Corporation, until interest rates increase and mortgages become more difficult to maintain, Ontario real estate lawyers can probably expect that values will continue to go up.

According to the Canadian Real Estate Association, the average two storey single-family home went for about \$350,000 in the Greater Toronto Area in January 2005. This past January it was almost \$750,000. In this real estate market people have come to expect that property is going to have a high value and large mortgages are going to be required. For real estate lawyers, this means that if something goes wrong on a file the potential damages are so much worse than if the same error had occurred twenty, ten or even just five years ago.

If lawyers micro-managed every file to eliminate all risk, it would be hard to have enough time to keep a practice alive. It's not reasonable to expect lawyers to be perfect or to never make a mistake. While lawyers can implement all of the best practice suggestions into their workplace routines the unexpected can still occur. So, plan for the unexpected.

When making a disaster plan or reviewing a firm's insurance needs lawyers should take a hard look at what can go wrong in their specific practice. A lawyer shouldn't try to model what will happen if she makes one mistake a year on a file that doesn't exceed \$400,000 in value or some other arbitrary amount. Instead, she should look at the average price of properties she handles and consider how busy her practice is before she plots out how many claims could arise and what they could be valued at when preparing for a worst case scenario.

To help with planning, LAWPRO has a "[Test Your Exposure](#)" stress test available on its website that can help lawyers determine if their firm would benefit from getting excess insurance that will provide additional coverage limits in the event claims arise that exceed the standard \$1 million per claim/\$2 million in the aggregate annual policy limits. For more information on LAWPRO's excess insurance program please visit our website (lawpro.ca/Excess), contact us at service@lawpro.ca or phone us at (416) 598-5800 or 1-800-410-1013.

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