Buildings and Personal Property Insurance for the Tree Care Professional

By Rick Weden

Whenever the discussion of insurance comes up in the tree care industry, I can confidently guarantee that the conversation will most likely be centered around the subjects of either Workers' Compensation, General Liability or Business Auto Insurance, as these lines of insurance are usually the high-cost items in a tree care company owner's insurance portfolio, and as such, get much of the attention.

What might be overlooked, however, is the subject of what is referred to as "Business Property" insurance. Falling into this category are buildings and other miscellaneous personal property that all businesses own in one form or another. To be clear, we are not discussing Inland Marine/Equipment Insurance here. That is a separate form of property insurance altogether, intended to protect against loss or damage to specific equipment that may travel away from the business premises, and may also have a need to be insured at more specific and higher individual values.

A tree care company's Business Property insurance needs can vary greatly depending on the individual company's circumstance. Fortunately, many Business Property policies commonly available in the insurance marketplace can be easily customized to meet an individual company owner's needs very effectively. Many companies own the buildings that they operate their business from, while others may rent the buildings and premises that they occupy. Beyond that, all tree care companies own some form of business personal property such as basic office contents, basic office equipment, computers, phone systems and so forth. Insurance can be obtained for pretty much any amount of property that one might own, and in pretty much any situation. The key to obtaining the proper forms and amounts of property insurance require the insured to take some time and assess what property they have, its correct values and so on, and then to review this with their insurance providers.

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Owned buildings

Many tree care company owners own the buildings that they operate their businesses from. This includes anything from small detached structures located on the company owner's residential premises all the way up to larger buildings located on separate, commercially zoned premises that, along with housing the owner's tree care business, may also have other occupants in the building that the tree company owner rents to as tenants of the building. So let's look at some owned-building scenarios

Buildings located on, and part of, private residence premises

This situation is extremely common in the tree care industry. Many company owners, particularly those who are either just starting, have a fairly new business or prefer to keep their operations on the smaller side, find it very cost-effective to run their companies out of a garage or other structure located on their residence premises. In these settings, we see a variety of situations, from anything from a couple of small out-buildings used to store equipment and other property to fully renovated detached garages or barn-type structures complete with storage areas and nicely appointed office space and so forth.

However, there can be a potentially serious insurance problem in these situations, as many might make the assumption that their Homeowners Insurance is insuring these buildings, as they might see an automatic extension of coverage for detached structures on the residence premises, usually in an amount equal to 10 percent of the amount of insurance for the main structure (dwelling) on their Homeowners policy. Most Homeowners policies, however, exclude or limit coverage to any detached structures on the residence premises "that are used in whole or in part for business."

The good news is that many Homeowners Insurance companies are willing to remove this limitation from their policy, but the owner of the property must first advise the insurer of the existence and nature of the business occupying the structure as well as the specific use of the structure, i.e., office, storage, etc., before the Homeowners insurer will agree to extend coverage under these circumstances. One also has the option to purchase a separate Commercial Property Policy that will provide coverage for buildings and contents as well. In the event that the Homeowners insurer is unwilling to extend coverage to buildings on a residence premises, a separate Commercial Property Policy will probably provide the solution to that problem. Always check with your insurance providers, both for your Business and your Homeowners policies, to obtain details on what might or might not be available to you.

Buildings that you own or rent that are not on a residence premises

In cases where the business owns or rents buildings at locations other than the owner's residence, the only option is for the business owner to purchase a Commercial Property Policy to adequately insure owned buildings and other business property at these locations.

There are also cases where one not only owns the building one operates out of, but is also a landlord, leasing portions of his or her building or premises to other tenants. In cases such as these, along with having insurance on the premises for your own interest, you need to be sure that your tenants have adequate insurance of their own, covering their own property, as well as having property Liability Insurance in place. It is highly advisable in these cases to have proper lease agreements in place between the building owner and the tenant that spell out everyone's responsibility with respect to insurance and all other landlord/tenant matters. If you are a building owner renting a portion of your building to a tenant, you should also be sure that you purchase an appropriate limit of Loss of Rental Income insurance (which we will discuss further in this article) in the event a covered loss to the building causes the loss/stoppage of rental income from a tenant.

If you are renting the property as a tenant, along with insurance for your own property that you keep at the premises, you might also have to insure "improvements and betterments" that you may have made to the interior of the buildings such as interior walls, ceilings, glass, carpeting, etc. In these cases, be sure to review your lease agreement as it may contain contractual requirements for you, as tenant, to insure improvements and betterments, as the landlord's policy may not insure these. The owner of the property, of course, has their own insurance covering their interest in the building(s) on the premises. There are rare instances where a property owner might require the tenant to insure the actual building even though the tenant does not own it. One generally encounters these kinds of situations when a special form of long-term lease arrangement, a triple-net lease, for example, exists between the landlord and tenant.

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Business personal property

Along with the possible need for insurance coverage on owned buildings is the need for coverage for any business personal property that the business may own. This would be any of the property that you own, rent or lease that you use to run your business, such as office furniture, office equipment, office supplies, spare equipment parts and pretty much any other property that the insured owns and uses to run the business that is kept on the premises. Remember that under most property policies, coverage only extends to property on or within 100 feet of the insured premises. With this limitation in mind, one can purchase a separate Inland Marine Policy that will address coverage for property while it is away from the insured premises.

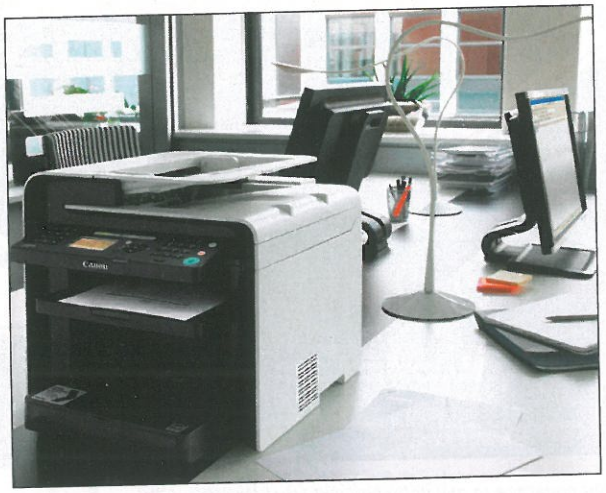
Coinsurance

Many business-property insurance policies contain what is referred to as Coinsurance Clauses, or Coinsurance Provisions. It is this writer's opinion that the existence of Coinsurance Provisions in property policies could possibly be one of the leading causes of much of the insurance-buying public's negative perception of the insurance industry.

When a Coinsurance Provision exists in a property insurance policy, and very many policies contain them, the insured is required to carry a limit of insurance that is at least equal to the value percentage that is specified in the Coinsurance Provision. Many policies have 80-percent coinsurance requirements, but 90-percent and 100-percent coinsurance requirements are not uncommon.

In the event that the limit of insurance that the insured purchased for their property is less than the percentage specified in the Coinsurance Provision, then a coinsurance penalty can be assessed to the insured which, in the event of a claim, can result in a significantly reduced claim payment to the insured. The greater the difference between the amount of insurance carried that is below the coinsurance percentage, the greater the potential penalty to the insured. Coinsurance penalties often come as a complete surprise to property owners after a loss has occurred, as the property owner may have been unaware of the existence of the provision, may not have understood it correctly and may not have had sufficient insurance on the property, thereby causing the penalty to be used by the insurer.

In some cases, an insured may be able to eliminate the risk of coinsurance penalties by purchasing what is called an Agreed Value clause on their policy instead of a Coinsurance Provision. Be aware that in order to purchase Agreed Value coverage, the insured will need to be sure that they are in fact insuring the property in question to a limit equal to the replacement



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cost of the property.

I highly recommend that one always consult their insurance provider about the coinsurance issue, as well as the possible availability of altering the Coinsurance Provision to an Agreed Value Provision if that is at all possible.

Replacement Cost vs Actual Cash Value (ACV) vs Functional Replacement Cost

Separate from Coinsurance are the valuation terms of a property policy. There are essentially three options that we generally see in use. First is Replacement Cost. Replacement Cost simply states that in the event of a covered claim, the insured will be reimbursed for lost or damaged property based on the cost to replace the property new at current market costs. This can apply to both buildings and property inside buildings. The age or condition of the property at the time of loss are not a factor. Basically, you get what we often refer to as "new for old." For example, if an insured loses all of their old and tired office furniture in a fire and they have Replacement Cost coverage for the property, the insurance company will reimburse the insured for brand-new furniture of like kind and quality.

Another option, which is discouraged, is Actual Cash Value, or what is called AVC Valuation. Under these terms, the insurance company will only offer a depreciated settlement for lost or damaged property, with valuation based on the condition of the property at the time of loss. So if the property is relatively new, the insured might get a settlement from the insurance company that is somewhat under the replacement cost of the property. But if the property is relatively old and worn, the settlement could be far less, leaving the insured to come up with potentially large amounts of money on their own to replace lost or damaged property. ACV coverage can be extremely problematic when it is applied on large building-insurance losses where the difference between Replacement Cost and Actual Cash Value might run into many thousands of dollars.

Specific only to insurance of buildings, on rare occasions we encounter a situation where a building may be eligible for what is referred to as Functional Replacement Cost valuation. This valuation option is often used in situations where the building that one owns could never be reconstructed as it was due to its age or nature of construction. A good example are old mill buildings with walls constructed of granite block and brick and with large wooden supporting beams. In general, current building codes and associated construction costs simply don't allow for reproduction of these kinds of buildings. In cases like these, the insured might want to opt for a building of completely different construction that will result in a functionally new building.

To avoid any possible confusion, I want to emphasize that these valuation terms act and are treated separately from Coinsurance Provisions from both a coverage and claims-settlement standpoint. One does not affect the other. Coinsurance Provisions involve the amount of insurance you carry, while Replacement Cost, Actual Cash Value, etc., are terms for valuation of damaged property.

Business Interruption Insurance

Many insurance companies offer the option to add what is often referred to as "Business Interruption Insurance" to their property insurance plans. Simply put, this is a form of insurance that will cover loss of business income and additional expenses, and possibly will meet certain other obligations that a business has suddenly lost the ability to handle in the wake of a significant property loss, such as fire or other covered cause of loss to the buildings they occupy. The combination of additional expenses and loss of income that are the direct effect from a catastrophic loss to property can quickly mount up into many thousands of dollars, seriously crippling any business, including a tree care company.

Overall, Business Interruption Insurance has a number of separate coverage components that a business owner can purchase to meet their potential needs. They can be purchased separately, or in a combined manor, enabling the business owner to develop a customized Business Interruption Insurance coverage to suite their individual needs.

The first and most commonly referenced in the insurance industry is Loss of Income Coverage. Simply put, if the business has a covered loss to their property and the loss directly causes a loss of income to the business, the Loss of Income Coverage component will become important. Many tree care companies, due to a combination of the nature of their physical layout and the fact that their income source is derived from income sources located off premises, may not have a large exposure to loss of income after a large loss, but clearly this is not the case for all. Many companies have their vehicle fleets and equipment stored out in the open and not in buildings, so if a loss were to occur to one of their buildings, the company might still be able to function, getting crews out to scheduled job sites and so on.

What about situations where the company in question has all of their vehicles and equipment stored inside a large building and the building is totally destroyed by fire? Under such a situation, the business may be shut down for a period of time. Some company owners who own buildings may also be leasing a portion of their building to a tenant, from whom the company owners may be receiving some amount of monthly rental income. If the building were damaged or lost completely from fire or some other covered peril, the building owner may lose what could be valuable rental income that was previously generated by a tenant.

The next component, Extra Expense Insurance, is in my opinion extremely critical, and I think that all tree care operations should consider having some amount of this coverage in their portfolios. After a significant loss to a building or buildings occupied by a tree care company, there is no question that the company will have potentially serious, unanticipated expenses. Perhaps this would include the need for rental of temporary office trailers, water and bathroom facilities at the company's premises location. Or the additional costs for immediate temporary rental of field equipment that may have been lost in a fire so that the company can keep running. Regardless of the fact that a company may have adequate insurance for all of its property and equipment, the actual replacement of it will take time, and this is time the company cannot afford being off the road, not in front of their customers and not generating income. If the company is unable to get out to their customers, they also run the potential risk of losing them to competitors. Loss of ability to pay valued workers may result in the loss of employees to a competitor, and we all know, in this day and age, everyone is looking for skilled tree workers.

Some common Coverage Exclusions and limitations often found on Property Insurance Policies

Most all property policies exclude loss caused by flood and earthquake, and in some regions, policies may have exclusions for wind damage as well. If you own or rent property that is in a flood-hazard zone or is located in an area where you think you might have exposure to flooding, then it is wise to explore the availability and cost of Flood Insurance. Unfortunately, Flood Insurance is becoming increasingly costly for property owners located in flood-prone areas. Coverage can be obtained through FIMA and the National Flood Insurance Program (NFIP). Earthquake Coverage, on the other hand, can often be added to an existing property policy. As with Flood Insurance, Earthquake Coverage can be costly for properties located in earthquake-prone regions. Earthquake Coverage often has a separate deductible attached to it, usually a percentage deductible.

In situations where a property is located in a region prone to hurricanes, insurers may be reluctant to offer coverage for damage caused by windstorm, or what might be referred to as "named storms." In some cases, as with Earthquake Coverage, insurers may offer Windstorm Coverage, but there may be a large deductible, and a percentage deductible applicable to windstorm losses.

This basic overview of property insurance coverage addresses just a few key points concerning Business Property Insurance policies. Actual property insurance policies are complex insurance contracts that can vary greatly from one insurer to another, and may contain numerous other coverage enhancements and coverage exclusions for which there is not nearly enough space to address here. It is highly advisable to review and question property coverage with your insurance provider periodically to maintain awareness of availability of coverage, policy exclusions and adequate limits of coverage.

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