From the Editor's Desk

Hanley's Highlights

by Jeff Hanley
Associate Executive Director, Building and Realty Institute (BRI), *Impact* Editor

Highlighting A Lengthy Series of Reports Affecting The Building, Realty and Construction Industries

ARMONK

A longtime saying in the media refers to small amounts of news as the products of "slow news days." After reading this issue of IMPACT, it is safe to say that our readers will not be reminded of that phrase.

Our current issue, without question, features a lengthy series of reports on key issues affecting the building, realty and construction industries. They include:

- A Page One report on the recent decisions of the Westchester County Rent Guidelines Board for rental properties affected by the Emergency Tenant Protection Act (ETPA), increases of one percent for a One-Year Lease Renewal and two percent for a Two-Year Lease Renewal.
- A Page One analysis of how the Building and Realty Institute (BRI) fared after the end of the recent New York State legislative session.
- A column by BRI President Lisa DeRosa on page one that reviews how the "Good Cause" Eviction Proposal explains how Albany keeps getting housing wrong.
- A report in Co-op and Condo Corner from Jane Curtis, chair of the Cooperative and Condominium Advisory Council (CCAC) of the BRI, citing that the CCAC has a message for New York State legislators – Co-ops are not composed of renters! The article is on page one.
- A report on the Westchester County Board of Legislators recently passing the Access to Counsel Bill.
- An article on page one that reviews the recent dividend announcements of New York State Workers Compensation Groups 458 and 530 (a 25 percent dividend for Group 458 and a 25 percent dividend for Group 530).
- A page two report in Insurance Insights that reviews how property owners are facing big Insurance Premium Increases. Commercial, Multi-Unit Residential and even Single-Family Homes and Condo Units are affected by the increases, the analysis cites. Ken Fuirst and Jason Schiciano, co-presidents of Levitt-Fuirst Insurance, the insurance manager for the BRI, wrote the article.
- A page three analysis in Counsels' Corner that reports on a court invalidating the requirement that Landlords accept Section 8. The report was written by representatives of Finger and Finger, A Professional Corporation. The firm serves as Chief Counsel to the BRI and its component associations.
- An article that reports on the BRI celebrating the sixth anniversary of the first broadcast of "Building Knowledge With The Building and Realty Institute (BRI)," the association's weekly radio show. The program airs live, every Friday, from 11:30 a.m. to 12 noon on WVOX 1460 AM and wvox.com. The show covers topics of interest to the building, realty and construction industries, as well as to the general business sector.

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Insurance Insights

By Ken Fuirst and Jason Schiciano
Levitt-Fuirst Insurance

Property Owners: It's Your Turn for Big Insurance Premium Increases

TARRYTOWN

For many years, insurance premiums for property owners – including commercial buildings, apartment building owners, condominiums, cooperative apartments, and homeowners – were relatively stable, commonly incurring increases of less than five percent annually.

Meanwhile, construction contractors, builders, and developers often incurred double-digit annual premium increases.

Well, now "the tables have turned." Beginning last year, and continuing in 2023, many contractors (with no past claims or extreme types operations) have received single-digit renewal premium increases, while property owners of all kinds – commercial, multi-unit residential, and even single-family homes/condo units/apartments – have seen increases of 10 percent or more, sometimes much more.

Unfortunately, we expect renewal increases for property owners to continue throughout the remainder of 2023. If you or your business receives a shocking insurance renewal premium increase, know that you are not alone - the entire New York habitational real estate industry is experiencing this unwelcomed trend. Here is an explanation of the market forces driving these increases.

MARKET FACTORS - the following are contributing to higher insurance rates:

- Rates for reinsurance (insurance purchased by insurance companies to cap losses) have increased 20 to 60 percent (Fitch) because of nationwide catastrophic claims events (hurricanes, floods, wildfires, tornadoes, etc.)
- Poor industry financial performance: the insurance industry paid-out more for claims and claims-related expenses in 2022 than premiums it collected (Triple-I, Milliman, Verisk).
- More restrictive underwriting: carriers are less interested in insuring buildings without central-station fire alarms - old buildings, large joisted masonry and wood-frame buildings, closely clustered buildings, buildings with grills on balconies, and buildings that are considered high-risk exposures. Total renewal increases for these types of buildings could be 25 to 50 percent, or more.
- Fewer carriers: multiple insurance carriers have pulled-out of the New York habitational real estate market, or have little interest in expanding their current book of business.

> **"In short, the factors impacting insurance for property owners is more complex than ever. Better to be aggravated but informed, rather than blissfully unaware until you're shocked into reality."**

BUILDING REPLACEMENT COSTS - Construction material and labor inflation drive increased building and home replacement costs, which results in carriers requiring higher amounts ("Limits") of insurance on buildings and homes, and higher premiums.

UMBRELLA MARKET COLLAPSE - Most Umbrella liability insurance programs for multi-family residential and commercial buildings have withdrawn from New York; only a few remain, and premiums have typically increased 50 to 100 percent over the last two years. Many buildings no longer qualify for these programs (due to age, construction factors, life-safety issues, or losses) and may experience Umbrella premium increases of five to 10 times for lower amounts of Umbrella insurance.

As a result of the above factors, a building's incumbent insurance carrier renewal is often the most competitive option, even with an increase of 10 percent or more. Real estate owners should address all insurance carrier safety and loss-prevention "recommendations" promptly to maintain good standing with the incumbent carrier, and/or alternate carriers that may offer competitive quotes.

Keep in mind, a new carrier will likely do an inspection of your property, and may require repairs, in order to keep the policy in-force. Proper insurance and risk-transfer documentation for contractors servicing or repairing buildings is also becoming more important to carriers insuring multi-family residential and commercial buildings.

In this daunting insurance market:

- Speak to your insurance broker about renewal premium expectations, so that you or your organization can budget accordingly;
- Don't delay necessary building capital improvements and repairs;
- When considering an alternate carrier, be sure to compare types and amounts of coverages, as well as key exclusions. Also, expect that the new carrier will inspect your building, and may require repairs as a condition of continued coverage; and,
- Obtain documentation from contractors that confirms you or your organization is indemnified, and additional insured, and that the contractor liability policies have no unusual exclusions hidden in the policies, which would prevent coverage for the property owner.

In short, the factors impacting insurance for property owners is more complex than ever. Better to be aggravated but informed, rather than blissfully unaware until you're shocked into reality.

Editor's Note: *Levitt-Fuirst Insurance is the Insurance Manager for The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and the Mid-Hudson Region. Ken Fuirst and Jason Schiciano are co-presidents of the company. The firm is based in Tarrytown.*

Co-op and Condo Corner: Dear Legislators: We Are Not Renters!, Continued from p. 1

required an amendment, two years in the making, that exempted co-ops from Part M. Even now, there remain annoying remnants, such as the timing of default actions, and the eight percent limit on late fees that has made it difficult to design time-staggered fees. It also greatly complicates sublets for those co-ops that allow them.

Last year, a bill to restrict landlords from charging legal fees to tenants' accounts was passed and will apply to co-ops even after the sponsor declared during floor debate that this was not the intention of the legislation. The CCAC is currently seeking a clarifying amendment.

A Threat

The highly controversial Good Cause Eviction bill remains a threat to co-ops, despite assurances from the bill's sponsors during last year's public hearing that it is not intended to apply. As no exclusionary language has been added to the bill, co-op maintenance payments would be equated with rent, thus limiting annual increases to three percent. This restriction could leave co-ops with insufficient operating funds, especially in the current inflationary environment. The myriad of other requirements would have as yet unknown consequences as they collide with established co-op procedures.

Although the CCAC successfully lobbied to exempt co-ops from the 2013 Westchester Source of Income law, the 2019 state Source of Income law included co-ops, potentially damaging the ability of admissions committees to properly evaluate the financial capability of applicants, each of whom must be able to carry their share of the costs of maintaining the property. If the source of income is a Section 8 voucher, regulations regarding repairs under this program are in direct conflict with the division of responsibilities set out in the co-op's governing documents.

The current opt-out process of carve-out requests for bills that have been introduced and amendments to correct laws after the fact is labor intensive. Every landlord/tenant bill must be scrutinized and flagged, sponsors contacted and persuaded to assist. The bills that slip through to passage must be corrected before they can cause damage.

> ***"It's time to act to clarify and codify that no landlord-tenant relationship exists in co-op apartment buildings. Co-op shareholders are not renters – co-ops are not landlords!"***

A Bright Spot

An opt-in approach would be more effective and efficient. Co-op advocacy organizations have been calling for legislation that would, by default, exclude co-ops from landlord/tenant laws. Legislators would then have to consider co-ops separately, which would lead to more thoughtful and appropriate regulation of this unique form of owner occupied and controlled multifamily housing.

Such an approach was introduced in proposed legislation (A7330, Related to the Treatment of Cooperative Housing Entities) on May 17 by New York State Assembly Member Edward Braunstein (D-26th AD). The language of the proposal reads as follows:

"Provides that the term "landlord" when used in the real property law, shall not include or apply to any corporation, entity or organization, hereinafter known as a "cooperative entity" that is or is operating for the purpose of providing housing and/or residences for its shareholders by leasing or subleasing to such shareholders, under proprietary leases or occupancy agreements or subleases of such leases or occupancy agreements of apartments or residences in the buildings or premises owned by such cooperative entities; makes related provisions for the term "tenant".

The proposal is currently in the Assembly's Housing Committee. It is being closely monitored by the CCAC and its allies. So, accordingly, again, it's time to act to clarify and codify that no landlord-tenant relationship exists in co-op apartment buildings. Co-op shareholders are not renters - co-ops are not landlords!

Editor's Note: ***The Cooperative and Condominium Advisory Council (CCAC) represents more than 400 co-ops and condos. Formed in 1979, the organization is a component association of The Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).***

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