



*Managing Real Estate (re)Development Risk &
Environmental Insurance*



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SMART Remediation
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Managing Real Estate (re)Development Risk & Environmental Insurance

SMART Remediation 2019
Lionhead Golf Country Club - 8525 Mississauga Rd, Brampton, ON

Carl Spensieri – Berkley Canada

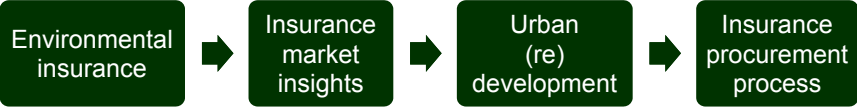


“Never lie in bed at night
asking yourself questions
you can’t answer”

Charles M. Schulz



AGENDA



Environmental Insurance

Fixed Site Environmental Insurance

Many names: FSE, PARLL, PLL, SPILLS ...

Many purposes

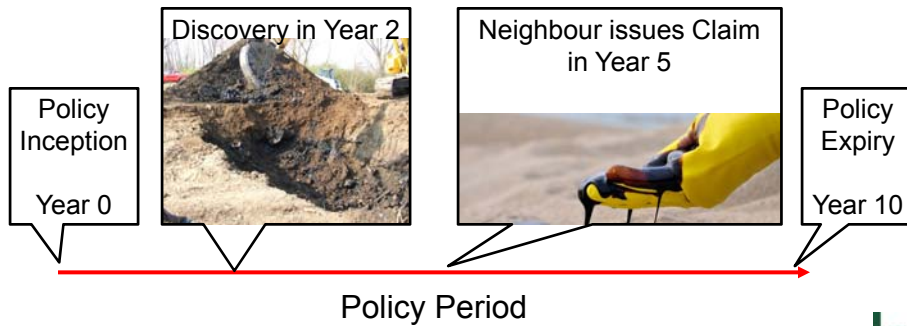
UNREGULATED



Environmental Insurance – Insuring Agreement

Pay on behalf of the INSURED for CLEANUP, resulting from a POLLUTION CONDITION at/migrating from a SITE:

1. DISCOVERED during the POLICY PERIOD; or
2. as a result of CLAIM made during the POLICY PERIOD.



Environmental Insurance – Insuring Agreement

Pay on behalf of the INSURED for BODILY INJURY or PROPERTY DAMAGE, resulting from a POLLUTION CONDITION at/migrating from a SITE as a result of CLAIM made during the POLICY PERIOD.

Natural Resource Damage

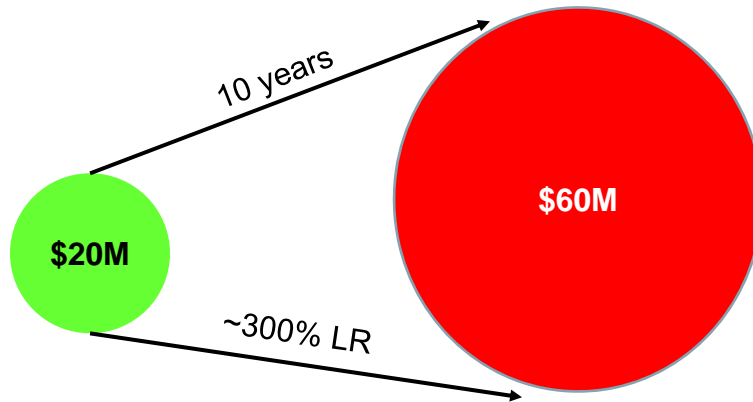


Bodily Injury from indoor vapour intrusion

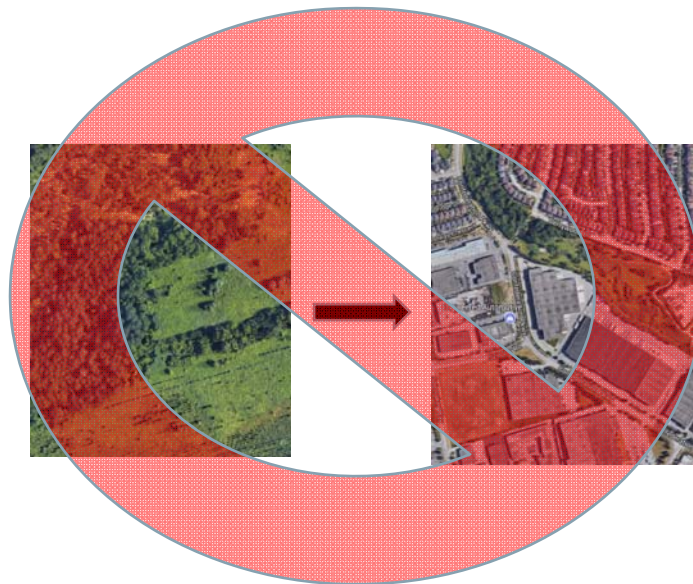


Insurance Market Insights

- Major changes Today compared to five years ago



Urban (Re) Development



Urban (Re) Development

Obtaining a
Construction/Development
Loan

Protecting Directors and
Officers

Indemnity Obligation
Assurance

Management of Divestiture
/ Sale Liability



Urban (Re) Development

Obtaining a Construction/Development Loan

Insurance ≠ make P&L profitable

Insurance = reduces financial
uncertainty re Cleanup

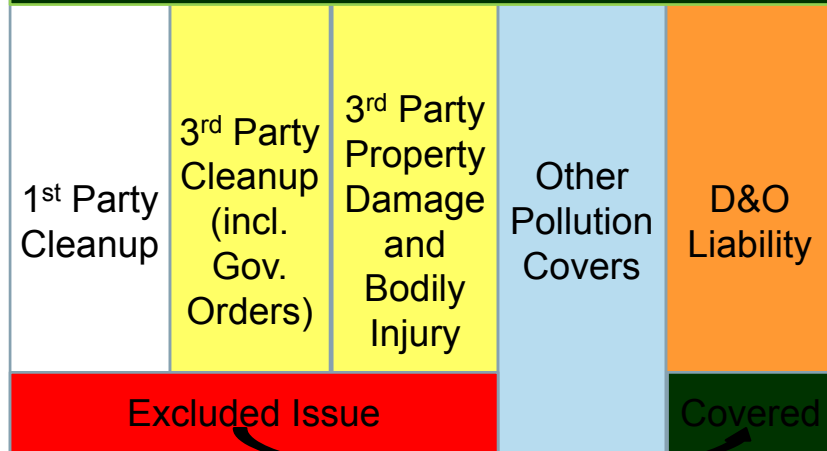
Insurance ≠ replacement for
adequate due diligence

Insurance = reduces financial
uncertainty re: 3rd Party Liability



Urban (Re) Development

Protecting Directors and Officers



Urban (Re) Development

Indemnity Obligation Assurance

Insurance ≠ make a bad agreement good

Insurance = reduces risk of enforcing the indemnity

Insurance ≠ replacement for a poor indemnitor

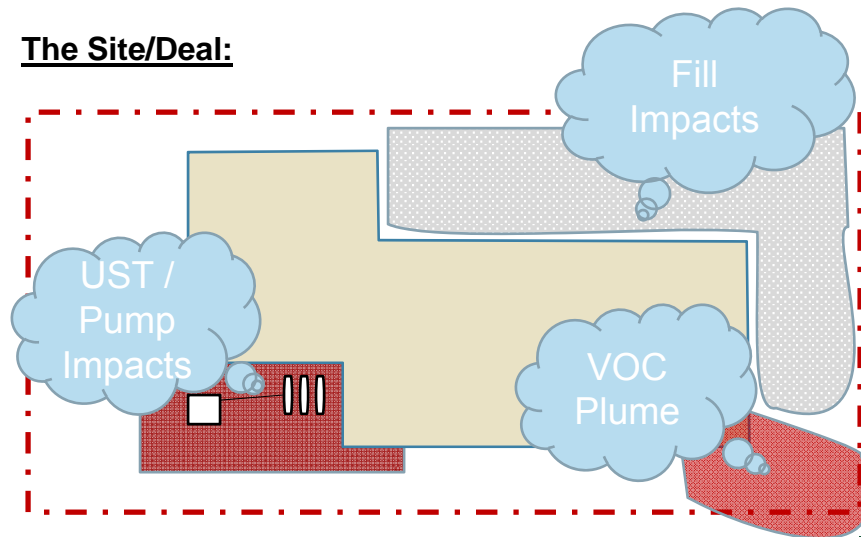
Insurance = provides an A+ rated 2nd recovery vehicle

Urban (Re) Development



Urban (Re) Development

The Site/Deal:



Urban (Re) Development

The Policy:

- Pollution Policy w/ \$10 million limit, \$250K SIR, 10 Year Term
- Excludes Onsite Cleanup of:
 - Fill Material, UST/Pump Island, and VOC impacts
- No Off-site exclusions, but VOC Claim subject to \$500K SIR
- Policy Premium: \$570K



Urban (Re) Development

The Benefits:

- Cleanup for new pollution discovered during redevelopment. *Minimizes financial risk.*
- Defence if neighbour litigates. *Caps financial risk to \$500K*
- All D&Os of the Buyer Co. are covered.
- During redevelopment, BI claims by the tenants are covered.
- Once cleanup and development are completed, exclusions are generally deleted. *Exit strategy is protected*



Insurance Procurement Process

1. **Engage underwriting early in the process**
2. Disclose Documents
3. Obtain Firm Indications/Quotes
4. Complete Application
5. Bind (purchase) Policy prior to or at deal close

