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DO YOU KNOW IF YOUR VACANT BUILDING IS COVERED?

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Walking through the streets of downtown San Francisco recently, it was sad to see a hotel boarded up with an announcement that they would be closed until further notice. It is undoubtedly a harsh reminder of current times and the economic impact the pandemic continues to have on the hospitality and real estate industry. Many businesses have had to ponder whether to keep a building open or make the difficult decision to close for a period of time. Whatever the decision, here is what you need to know about your property insurance and how ceasing operations or closing a building can impact your coverage.

While commercial property insurance policies can vary, most have provisions that address vacant or unoccupied buildings and/or rented space. Some policies have outright exclusions if the building is vacant or unoccupied temporarily. Others may have a vacancy clause that restricts coverage for losses at an empty building.

VACANCY EXCLUSION

For policies with a vacancy exclusion, buildings deemed vacant can be completely uncovered. In most policies, a building is considered vacant if:

- The building is unoccupied (without people) for 60 consecutive days.
- The insured is a tenant in a building, and the rented space doesn't contain enough business personal property (contents) to conduct customary operations.
- The insured is the owner, and less than 31% of the gross square feet is occupied by tenants or used by the owner for customary operations.

VACANCY CLAUSE

Policies with a vacancy clause typically will exclude coverage for losses due to theft, vandalism, water damage, or malicious mischief, but grant coverage for other perils (fire, wind, hail, etc.) provided the insured maintains:

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- Installed fire protection (sprinklers and other fire suppression systems).
- Building heat and other HVAC systems.
- Building security and alarm services.

The insured must also provide written notice to the insurer prior to the 60th consecutive day of cessation of operations, vacancy, or unoccupancy to retain coverage.

VACANCY PERMIT

If you have a building that is or will soon be temporarily vacant, the best solution is to request the carrier add a vacancy permit, which removes the vacancy exclusion for a specific location. The carrier may require assurances that the protection systems (fire and security) and building services (light, power, and heat) are maintained. Some carriers will even issue a protective safeguards endorsement that requires you to maintain these systems and notify the carrier of any impairment. Failure to comply will nullify coverage.

Nonetheless, by having a vacancy permit, coverage for vandalism, sprinkler leakage, glass breakage, water damage, theft, and attempted theft will continue during the unoccupied period, provided all the protection requirements are met.

As you make tough business decisions in the days and months ahead, consult your insurance broker; we are here to help walk through the implications and advocate on your behalf with your insurance carriers.