

The Wicked Problem of Public Housing

The term “Wicked Problem” was coined by design theorists Horst Rittel and Melvin Webber in 1973, to draw attention to the complexities and challenges of planning and social policy problems[1]. Public housing is one such challenge; it is impossible to resolve in any one way that is simple or final. The need for public/social housing is a product of multiple societal issues: housing shortages, homelessness, poverty, unemployment, even mental health issues, to name only a few, so any successful solution will require a nuanced and complex approach. This article does not attempt to solve the problems with public housing, but rather attempts to draw attention to the complexities and challenges of providing affordable and accessible housing and shelter to those that need it most, and attempts to answer the question: *How do we insure it?*

Though the importance of insurance can be disputed by some, there is little doubt that when a risk becomes too complex, the losses too large and too frequent, obtaining adequate coverage elsewhere is challenging, if not impossible. Insurance, however, is only one tool for managing the risk of providing housing and shelter to those that need it. To better understand how the insurance product can help support providers of social housing, we need to understand why this particular class of risk is so perplexing and how solid risk management principles will help make insurance more available, affordable, and effective.

Good risk management in public housing settings can be confounded by a lack of understanding of what the actual risk exposures in question are. This can be further complicated by different service delivery models, different

1 https://www.stonybrook.edu/commcms/wicked-problem/about/What-is-a-wicked-problem

funding models, different layers of governance, and that is all before we can address the different layers of services that social/public housing provides. For the purposes of addressing risk and insurance, this article will discuss some of the challenges faced by public housing providers, as well as how risk management can help organizations prevent losses from happening, and to better deal with them when they do. The advice that is offered stems from decades of Intact Public Entities' experience with this dynamic risk exposure; from public housing to shelter beds, offered by municipalities and non-governmental organizations (NGOs), we have deep bench-strength in placing the right coverage for the right service provider. Those lessons learned can, and should, inform your own practice in helping people, and ultimately will help improve the multi-factorial problem of housing insecurity in our communities.

Housing assistance is delivered in many forms, through many different channels; which can lead to risk management plans that do not always fit the specialized needs of the provider. Understanding who the provider is, what services they will provide, how they are funded, and who owns the property in question, are the first steps in ensuring that the right risks are identified and managed appropriately.

Management Models

Municipalities and not-for-profit organizations often provide housing assistance. Funding can come from a variety of sources, from private donations to federal resources, but with each unique funding model comes standards and compliance issues that can complicate the provision of housing. Each model of delivery requires a fulsome assessment of the agreements in place as well as the risks involved. Responsive and relevant insurance models are needed to ensure that charitable organizations and municipal entities can continue to provide services.

Insurers and insureds alike must understand the difference between:

- Charitable organizations and municipalities offering temporary shelter beds: *Shelter beds represent a unique, albeit temporary, form of service delivery that can include food service, drug management and mental-health interventions.* ***See separate article on Shelter Bed Risk Management and Insurance***
- Municipalities and entities providing subsidized or income-based housing: *Understanding who owns the subsidized units and who is responsible in the event of a loss is key to understanding and managing this risk exposure.*
- Not-for-profit entities that act as placement agencies: *These agencies typically don't own the housing stocks, but rather act as a go-between for individuals and owners or property managers who have suitable housing units. These agencies can arrange for both temporary shelter beds as well as longer-term housing.*

For each of the models mentioned above, there are permutations that may require different insurance and risk-management considerations. Like all "wicked" problems, a one-size-fits-all solution will seldom be successful. Regardless of what the arrangement is, we strongly recommend formalized agreements between all the different stakeholders to clarify roles and responsibilities.

Public Housing Defined

Public housing, also known as "social housing," typically provides low-income households with housing and is offered at below-market rent levels. They can also be called rent-assisted units, low-income units, or rent-geared-to-income units[2].

Due to the many different types of social housing models, establishing a typified insurance product, and even risk management practices for them, is a real challenge.

Public Housing Risk Management – *Property Exposures*

Each type of housing complex has different risk management considerations. Insurance is an important risk management tool to mitigate the adverse effects of a loss, most certainly, but preventing losses from happening in the first place, by using sound risk management tools, is clearly a more desirable outcome. Often in social housing scenarios, there is a significant uninsured component to losses: be it an uninsured tenant, or a loss that has occurred due to poor maintenance or wear-and-tear.

Experience demonstrates that fire and water losses are the two most significant property risk exposures in residential settings, and public housing is no exception. In fact, due to many compounding factors, preventable fire losses are especially concerning in public housing projects.

2 https://www.pbo-dpb.ca/en/additional-analyses--analyses-complementaires/BLOG-2425-008--evolution-canada-social-housing-stock--evolution-parc-logements-sociaux-canada

Consequently, fire education specific to the residents in public housing is key.

To help prevent fire losses, property managers can:

- Consider smoking policies: having a no-smoking policy that is strictly adhered to is very effective in reducing fires caused by careless cigarette disposal and smoking. These types of policies may however, have a restrictive effect on creating inclusive housing for everyone.
- Be clear-eyed about smoking: simply prohibiting smoking is often ineffective in preventing fires and can at times exacerbate the problem. Instead of turning a blind eye that tenants are smoking on patios and decks and using planters to extinguish and dispose of their cigarettes, it may be advisable to provide sand-based cigarette disposal receptacles. These are excellent in preventing a very common cause of fire losses – but could also give the impression that smoking is now approved by building management. A balance must be struck between risk control and educating the people living in the housing complex.
- Comply with Landlord/Tenant legislation – in Ontario for example, some smokers can be "grandfathered," however, restrictions can, and should be, in place at least in all public areas. This includes using sand-based disposal receptacles and maintaining them regularly.
- Create a strategy for charging of e-mobility devices' batteries: these types of fires can be mitigated by providing communal charging in areas that are sprinklered and can better control for fire. This is a dynamic and relatively new risk exposure to address, but given the upward trends of fires where device charging is the cause; often due to worn charging contacts, or defects on the batteries or equipment, it must be proactively managed. If creating a charging "zone" is not a practical solution, offering free safety inspections by certified specialists may be warranted, coupled with in-house education campaigns.
- Consider electrical appliances: those that are part of the unit (installed ranges and cooktops) as well as those brought into a residential unit by the tenant. Second-hand or poor-quality appliances (or appliance misuse) are often a vector for fires. Educating residents of the dangers of improper use of electrical appliances and the importance of proper care and maintenance, can help mitigate this exposure.
- Implement an education campaign illustrating the dangers of:
  - Careless smoking and disposal of cigarette debris.
  - Use of candles and open flames in rental units – encourage appropriate use and extinguishment.
  - Charging of e-bike and e-mobility batteries in rental units.
  - Proper use of stoves and cooking – not placing anything but cooking equipment on stovetops.
  - Disconnecting fire/smoke/carbon monoxide detectors, which should be functioning, tested, and present in each unit.

Risk management strategies to address fire exposures must reflect the unique circumstances surrounding a particular housing project and the clients/ residents it serves.

Water damage and flooding run a close second to fire in property losses *(see inset on next page)*. If housing units are located upon floodplains or in flood-prone areas, overland flood insurance coverage may be expensive, if not impossible to purchase, increasing a project's vulnerability to flood damage. Implementing risk management strategies focused on flooding can significantly reduce the (potentially uninsured) impacts of overland flood:

- Be aware of potential impending flooding and elevate valuables or sensitive materials off ground floor/ basement floors. Management may wish to implement a warning system so residents are made aware of impending heavy rainfall or potential overland flooding. This will, of course, depend on the type of housing project, but making residents aware of this vulnerability can go a long way in protecting assets and even in some cases, lives.
- When a flood warning is issued, know where vulnerable or disabled tenants reside and ensure there is a support system in place should an evacuation become necessary. Creating emergency plans and putting them in practice – especially for the vulnerable, is critical.
- In flood-prone regions consider elevating the building's mechanical infrastructure so that in the event of a flood, the building's systems can still function, and do not pose a safety issue (live electrical).
- Consider landscaping and grading changes to divert potential flood waters away from residential areas.
- Educate residents of the site vulnerabilities so they

Flood vs. Water Damage
How the laws interact

It may be tempting to say that when a pipe or hot water tank leaks, you have a "flood." By insurance parlance, those are not floods for the purposes of coverage, they are water escape or water damage claims.

Flood, or Overland Flood typically means: waves, tidal water or tidal waves, the rising, overflowing, or breaking of boundaries of lakes, ponds, reservoirs, rivers, harbours, streams or other similar bodies of water, the rapid accumulation of surface waters.

Water damage risk occurs in any structure anywhere because it emanates from the source(s) of internal provision of water services.

Flooding risk, on the other hand, is largely dependant upon the structure's location (on a flood plain, or adjacent to a coastline).

know what to do beforehand should a flood event occur: who to call, how to react safely (stay out of areas where there could be live electricity), clearing downspouts and local storm drains can make a significant difference in susceptibility to flooding.

- Roof leaks and storm drains can reduce susceptibility to flooding.
- Property managers are well-advised to regularly inspect storm drains and downspouts for blockages and clear them immediately. This is especially true when storms are forecast.

Implementing pre-flood risk management can make a significant difference during a flooding event in protecting the housing, the residents, as well as their property.

Like flood, water losses in apartment complexes and congregate living settings are a major concern. From leaking pipes to an overflowing toilet, water can travel into multiple units impacting the tenants as well as the common areas of the housing complex. Encouraging smart water strategies like regular inspections of pipes, toilets, drain lines and hot water tanks can go far in mitigating this exposure.

- Each source of water, from a hot water tank to a water dispenser, can be a source for leaks and must only be installed by certified professionals.
- When leaks occur, consider the affected areas as well as areas you can not see; water can hide behind drywall or under laminate flooring and can be a source of black mould if not remediated properly.
- Encourage residents to inform property managers when a leak is discovered: an overflowing tub may be an embarrassment to the resident, but damage can be mitigated effectively if discovered promptly.

Each loss prevention/mitigation strategy should be fully documented and that documentation retained. The strategy should include a responsive incident reporting policy that addresses residents' unique concerns and requirements.

A Note About Hoarding

From a risk perspective, hoarding can create loss exposures and can make a simple claim for water damage, a complex and serious loss.

The American Psychiatric Association describes those with Hoarding Disorder as: *People with hoarding disorder have persistent difficulty getting rid of or parting with possessions due to a perceived need to save the items. Attempts to part with possessions create considerable distress and lead to decisions to save them. The resulting clutter disrupts the ability to use living spaces (American Psychiatric Association, 2022)*[3].

Given that hoarding disorder can be connected with other mental health issues such as depression and anxiety, it is important to, at least to some degree, understand its relevance and impacts upon those vulnerable individuals who live in public housing. Hoarding must be treated sensitively, but it must be understood that hoarding potentially can pose:

- Health risks: vermin can easily be hidden within piles of newspaper and debris causing serious health issues from breathing problems to viral infections.
- Tripping hazards: causing falls.
- Fire hazards: combustibles can be stored adjacent to flammable papers, electrical appliances can readily catch adjacent papers or other flammables, materials in close proximity can permit a smouldering fire that can be hidden for some time before discovery, small fires are difficult to extinguish because they are

3 https://www.psychiatry.org/patients-families/hoarding-disorder/what-is-hoarding-disorder

difficult to access.

- The National Fire Protection Association (NFPA) offers guidance and education on the emergency response to hoarding: **https://www.nfpa.org/education-and-research/emergency-response/hoarding**

There may be little that a landlord can do to improve a hoarding situation, however, recognizing the symptoms and having sensitivity to the role that mental health plays in hoarding is a good place to start.

Public Housing Risk Management – *Liability Exposures*

From a severity perspective in this risk class, the most costly claims are property losses involving fire and water damage. Liability losses however, are also a prevalent and ongoing concern. Among them slip/trip-and-fall claims are the most common liability exposure. Incidents vary depending upon the extent of paved walkways and parking lots. This is especially true in those housing projects that service vulnerable or disabled clients.

Property managers in public/social housing developments must comply with all relevant landlord/tenant legislation and also recognize that all human demographics require housing assistance and the housing provided should be responsive to individual needs. Barriers to access for housing from the perspective of those that have disabilities must be addressed by housing providers. The Accessibility for Ontarians with Disabilities Act (AODA) provides guidance as well as The Centre for Equal Rights in Accommodation (CERA). **https://accessibilitycanada.ca/wp-content/uploads/2019/05/Unlocking-the-AODA-A-Guide-for-Housing-Providers-in-Ontario-CERA.pdf**

When creating procedures and processes within a housing development, the unique needs of disabled individuals must be addressed and accommodated whenever possible.

Like all issues surrounding potential liability, having a documented process for issues and complaints, and being transparent, while at the same time respecting an individual's right to privacy, is a fundamental component in protecting the organization and providing a defence should one be needed. Consider your procedures for:

- Snow clearing and salting to control ice on walkways and parking lots are important during the winter months.
- Regular inspections of paved surfaces, walkways and trails help uncover and solve issues with surfaces and help assure pedestrian safety.
- Consider entryways and stairways and ensure they are inspected regularly: use slip-and-fall floor mats where appropriate but include a regular inspection system of the mats to ensure they do not become trip hazards.
- All stairways and railings must be inspected regularly and must comply with AODA and building code standards.
- Processing complaints: *Is this an urgent incident? Is this a report of a potentially dangerous/serious situation that requires immediate attention? Is this a repeated complaint (either from the same tenant or same area/location)? Does a correct response include informing the authorities? Is front-line staff empowered to make the right decisions to remedy the situation immediately?*
  - Create a documented standard operating procedure (SOP) for addressing complaints and provide guidance within that document to aid staff in the next required steps.
  - Train staff ahead of time to properly assess the issue so, like a drill, they will know what to do, document their actions properly, and resolve the issue where possible in keeping with established procedures.
- Incident Reports: Like complaint processing, all staff should be well-trained with properly dealing with an incident when they occur. *Can this be resolved? Should it be escalated?* Incident reports should include all relevant information and should be retained as evidence. All information in an incident report could become evidence in a liability claim – the report must be accurate and not include editorial comments or opinions – just the facts.
- Job logs, checklists and regular repairs: Work should be fully documented – the requirements for this type of documentation will vary depending on the public housing project and whether there are on-site staff or contractors, but documentation of non-events and all-clear inspections provide evidence of good management, painting a picture for a court. A well-managed area that is regularly inspected and properly maintained is less likely to be the subject of a liability claim: *The evidence shows that this walkway was*

regularly shovelled and salted. The landlord clearly did everything "reasonable" to keep the area safe. Without documented evidence that good inspections and maintenance are carried out, it is significantly more difficult to fight against allegations of negligence.

- Using contractors to complete work: Whenever a third party is brought onto the site to carry out tasks, a formal agreement should completed prior to the commencement of work. This agreement should address:
  - Scope of work to be carried out and completed.
  - The expectations of the quality of the work and proper warranty of the work completed and compliance with all safety standards.
  - Worker's compensation compliance (contractors should all carry workers' compensation insurance).
  - Indemnity language (to protect the owner of the property if the contractor fails in their duties and someone is injured).
  - Additional Insured status: the property owner/ landlord is added to the contractor's liability insurance policy.
  - A certificate of insurance which proves the limit of insurance, and the addition of the owner onto the contractor's policy must be provided (and scrutinized by the owner).
  - *Force majeur* language: if there are issues out of either party's control which can frustrate the completion of the contract – what are they? And what are the acceptable resolution provisions?
  - Contractors should not, except in limited cases, have unfettered access to the housing project: All visitors to the project should be controlled for and should be restricted in their ability to interact with tenants.

Working with vulnerable people can leave organizations uniquely exposed to allegations of abuse. This exposure is unique to other liability and loss exposures and must be treated responsibly, with utmost respect to the individual, and in compliance with standards, legislation, and industry guidelines. Though challenging to defend against, these claims shine a light on the need for documented procedures and processes that align with authoritative guidance, which is indexed and readily accessible should a claim occur.

Insurance for Public Housing

Property Coverage – Insuring facilities and equipment for public housing developments requires a well-considered and unbiased assessment of the costs that would be required if the complex or a building within it, were destroyed. All-perils coverage will provide a broad base of coverage against many perils, but exclusions do apply which limit the property and perils that are covered. Insurance coverage must be tailored to the unique placement and circumstances of each housing project.

There are also other components to those structures that may require additional standalone or add-on insurance:

- If there are air-conditioning units or pressure vessels delivering water, or even power generators, equipment breakdown coverage may be required.
- Common areas may contain contents that will require extra insurance: sporting equipment in gym facilities, computer equipment for common use.
- Playground equipment and outdoor amenities should be factored into the value assessment.
- In older structures that may be deemed to be "low value," the cost to rebuild to present code standards should be considered; enhanced by-laws coverage may be required.

Tenant's Coverage – Property managers for regular market rentals insist that their tenants carry appropriate tenant's insurance policies which will protect the tenant and the landlord in the event of an insured loss; this condition is typically part of the lease agreement. It is clearly in the best interest of the tenant to maintain that coverage to protect their assets and protect against any legal liability they may incur if they negligently cause a loss to their neighbours or the landlord. A tenant's insurance policy will also provide the benefit of Additional Living Expenses when a loss occurs which provides for the extra costs involved to rent alternate premises while repairs from a covered loss, are completed. Tenants in social housing however, may not own valuable assets that require financial protection and may find it difficult to afford the premiums for a tenant policy. Arranging for packaged tenant's policies is one way the landlord may be able to promote individual tenant's insurance. In lieu of that, landlords and property managers are well-advised to manage risk proactively and be prepared to do it differently

than in typical market housing. How would you protect these assets if there was no insurance? Asking that question often compels a more proactive risk management response in owners and operators.

Liability Coverage – The liability policy typically responds when claims by a third party are brought against the insured because of alleged negligence causing bodily injury of property damage. If coverage is triggered, the policy will typically pay for the investigation and defence costs as well as the subsequent award or settlement of the claim. Claims can be brought against property managers/owners/agencies for all manner of perceived wrongs. Historically, slip/trip-and-fall claims are a significant area of concern for landlords and property managers in congregate settings, or public housing projects, we have seen this exposure worsen due to the vulnerabilities of the residents (seniors or disabled residents). The larger the complex, the more walkways and paved surfaces involved, coupled with an understanding of needs of the residents, all factor into this risk exposure and must be controlled for, understanding all of the areas owned, or under control of the complex is an important component in placing general liability coverage.

- General liability insurance policies often exclude certain types of coverage, so they can be included in more specific policies that better relate to a particular risk exposure. Some additional coverage considerations should include:
  - Non-Owned Auto: *This policy provides enhanced coverage for liability that emanates from the use and operation of automobiles that are not owned by the Insured. Especially necessary when staff (and volunteers) use their own vehicles or rent/lease vehicles to carry out their work tasks. (**see articles on Volunteers and Auto Use**).*
  - Cyber Liability: *This exposure will vary depending on the extent of records that are stored on-line. This is especially true of private information that could be exposed in a cyber attack. Good risk management practice and cyber hygiene can mitigate this exposure, but a cyber liability policy can offer much needed assistance and insurance coverage when a cyber breach occurs.*
  - Abuse Liability: *Not all general liability policies respond to abuse. Ensuring this coverage is in place is especially important when dealing with vulnerable individuals and children directly.*
  - Legal Expense Coverage: *This policy can provide some reimbursement coverage for defence costs as well as some court costs where a typical liability policy will not respond.*
  - Employment Practices Coverage: *This policy can offer extra assistance and reimbursement for allegations of harassment, discrimination, or wrongful dismissal.*
  - Environmental Practices/Pollution Coverage: *This type of insurance can respond in the event that a spill occurs. Situationally specific, this type of policy is especially important if the project in question is adjacent to a sensitive area or watercourse, where pollution will have a significant impact.*
- It is vital that the operator of the housing project works with a qualified and licensed broker or managing general agent (MGA) that are familiar with the types of risk exposures that are relevant to their specific operation. Each one is different, and insurance must reflect those unique differences.

Public housing, though integral to communities, is a difficult risk class to both manage and insure. Understanding the complex risk factors that are posed in different settings and situations is key to reducing the potential harms of losses; both insured and uninsured. The disruptions caused by losses can impact vulnerable residents more deeply than those in market housing, so avoiding losses from happening in the first place can help support resilience by offering continued housing and protection of property. Practicing good risk management that reflects the unique circumstances of public housing can positively impact the availability and sustainability of insurance in an otherwise challenging risk landscape. Ultimately, providing insurance and risk management advice for the municipalities and agencies that support public housing in our communities enables them to continue their invaluable work in providing social housing where its needed, and is one key element in improving a very “wicked problem.”

While Intact Public Entities Inc. does its best to provide useful general information and guidance on matters of interest to its clients, statutes, regulations and the common law continually change and evolve, vary from jurisdiction to jurisdiction, and are subject to differing interpretations and opinions. The information provided by Intact Public Entities Inc. is not intended to replace legal or other professional advice or services. The information provided by Intact Public Entities Inc. herein is provided “as is” and without any warranty, either express or implied, as to its fitness, quality, accuracy, applicability or timeliness. Before taking any action, consult an appropriate professional and satisfy yourself about the fitness, accuracy, applicability or timeliness of any information or opinions contained herein. Intact Public Entities Inc. assumes no liability whatsoever for any errors or omissions associated with the information provided herein and furthermore assumes no liability for any decision or action taken in reliance on the information contained in these materials or for any damages, losses, costs or expenses in a way connected to it. Intact Public Entities Inc. is operated by a wholly owned subsidiary of Intact Financial Corporation. Intact Design® and Risk Management Centre of Excellence® are registered trademark of Intact Financial Corporation or its affiliates. All other trademarks are properties of their respective owners. TM & © 2026 Intact Public Entities Inc. and its affiliates. All Rights Reserved.

intact public entities