

Report to Members of the Ontario Association of Architects

AN INDEPENDENT DUE DILIGENCE REVIEW OF THE INSURANCE SERVICES OF PRO-DEMNITY INSURANCE COMPANY PROVIDED TO POLICYHOLDERS

In February of this year Council retained the services of Stephen White of Somerset Insurance Consulting to conduct a due diligence audit of services provided by Pro-Demnity to its policyholders (our members). As the sole shareholder of Pro-Demnity, one of the expectations of the OAA Council is that from time to time a due diligence review process will be undertaken to determine that the Pro-Demnity Insurance Company is meeting the requirements of its mandate as set by the OAA Council and that it is providing services and guidance to the policyholders in accordance with the established mandate and objectives of Pro-Demnity.

The final Report issued by the Consultant was very favourable of Pro-Demnity's services and concluded the following:

- *The Vision and Mandate obligations are evidenced as having been met on an ongoing basis by Pro-Demnity and the staff. Detailed reporting to the OAA is made on a regular basis with independent financial and claims handling reviews to provide evidence of that performance.*
- *The cost of mandatory Professional Liability cover for the great majority of practices in Ontario is competitive and guaranteed to be available for all OAA members with a valid certificate of practice. Coverage is broad and without any individual restrictions regardless of any past claims experience. Some of the larger practices could probably obtain a reduced premium if the open market was an option but not on the broad policy form offered by Pro-Demnity.*
- *The policy coverage offered by Pro-Demnity has a reduced or 'disappearing' deductible obligation on settlement payments below the policy limit of \$250,000. The Deductible applies only in proportion to the amount of claim settlement paid divided by the limit of \$250,000. (e.g. an insured with a \$5000 deductible and requiring a \$100,000 indemnity payment would make a deductible payment of \$2000). **(This is a unique benefit for OAA member policyholders.)***
- *The Pro-Demnity policy provides for Defense costs being covered in addition to the limit of indemnity – this is not normally available from the open insurance market.*

- *Architects who retire from practice are insured thereafter without additional premium. (This is a particularly unique benefit for OAA member policyholders where such cover would not be provided in the open market without premium payment.)*
- *Increased limits coverage is efficiently available through Pro-Demnity and the option to seek open market cover is advised to all insureds. Excess limit options from Pro-Demnity have multiple limit aggregates not normally available from open market insurers.*
- *Claims handling and defense has developed over the 24 year history of handling the Indemnity Plan. The Pro Demnity defence of claims is held in high regard within the industry.*
- *The current insurance program and the performance has produced Plan Credits for every year of operation. The average Plan Credit amount has been 27% and the lowest 15% in year 10 (1996/7).*
- *Ongoing loss prevention and education is undertaken and further improvement is recognized as a need by Pro-Demnity which plans further expansions in this area. The concept of 'Lunch and Learn' seminars being conducted in house for practices is being considered as well as the possibility of on line educational facilities.*

In March of 2011 OAA Council received the final report of the Consultant and was pleased with the findings. Notwithstanding the above there were some areas identified by Council where it was suggested that Pro-Demnity could improve on client services. As a result, the following recommendations were made to the Pro-Demnity Board. Noted below each recommendation in italics is the response from the Board.

1. The Board is requested to consider review of Pro-Demnity Insurance Company's policy of budgeting for Plan Credits with a view to lowering the premium upfront.

Pro-Demnity has indicated that it has considered this recommendation however maintains that for a variety of reasons, including its enterprise risk management strategy and responsibility to act in a prudent manner they support maintaining the status quo. In any given year there is no means of predicting what the actual Plan Credit will be. The Plan credit acts as a buffer and as you move to minimize the credit by lowering premiums the greater the possibility of a loss.

2. The Board is requested to review and revise its communications with policyholders such that it be clearer with respect to coverage that is available if a firm is asked to retain certain specialist consultants or chooses to retain such, notwithstanding that Pro-Demnity Insurance Company has issued precautions about doing so.

In response, Pro-Demnity has planned to conduct a survey of policyholders regarding the retention of specialist consultants in order to provide a comprehensive understanding of the obligations and exposures being incurred. The purpose is to determine the segment of policyholders involved, risk mitigation strategies being used as well as their understanding of the insurance coverage available by Pro-Demnity in this regard. Once this information is collected the Board feels it will be in a better position to determine how best to address the issue that the retention of these specialists, i.e. geotechnical, surveyors, environmental engineers is part of the practice of architecture. Pro-Demnity has offered to share this aggregate data with the OAA in order that subsequent bulletins can be coordinated.

3. The Board is requested to explore broadening their Continuing Education opportunities through 'lunch and learns' as part of their prevention education plan.

Pro-Demnity does conduct lunch and learns sessions, however they have tended to be more often than not attended by a firm's staff including non-architects. The content tends to be more general in nature limited to what Pro-Demnity can provide directly. The impact on practice and value to principals is uncertain. Effective use of resources has been noted as a reason why lunch and learns have not been more widely offered noting specifically the size of many firms as well as location. The Board considers the lunch and learn format to be secondary to the one on one advice that can be obtained on a daily basis by contacting Pro-Demnity directly.

4. The Board is requested to consider exploring a means to offer enhanced assistance to firms to prevent unresolved issues from developing into a claim.

In response, Pro-Demnity has issued two new Bulletins to policyholders which focus on the definition of a claim and what to do when a policyholders believes that a claim may be forthcoming. The second bulletin provides information on a newly introduced feature on policy renewals post April 1, 2011, specifically a 60-day reporting extension of coverage. Both bulletins are posted on the Pro-Demnity area of the OAA Website.

5. The Board is requested to investigate the possibility of becoming federally licensed as an insurance provider in order to resolve issues that have recently come to light relative to licensing in other provinces, specifically Newfoundland

Pro-Demnity is seeking the ability to offer insurance in other Provinces. The Board has indicated that it has been determined that it is not necessary to seek federal licensure as this can be achieved by making application to the provincial regulator to which Pro-Demnity reports (Financial Services Commission of Ontario).

The Council upon receiving the Report also feels that it is prudent for the OAA as the sole shareholder to undertake a similar due diligence review every five years. The Council also encourages members and policyholders to provide feedback on an ongoing basis regarding the types of services they receive from Pro-Demnity by emailing the President at president@oaa.on.ca