



Inside Insurance

Commercial Corner

Tenant Improvements

When a tenant makes permanent improvements to a leased building, the improvements usually become the property of the building owner. The tenant gains the ability to use and enjoy the improvement or betterment during the period of the lease.

Examples of improvements could be air conditioning, office partitions, lighting fixtures, or special electrical or plumbing installations necessary to run your business.



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The commercial property policy defines improvements and betterments as:

“fixtures, alterations, installations or additions that are made a part of the building that is occupied but not owned by the named insured, and the named insured acquires or makes at his expense but cannot legally remove.”

If there is a loss and the improvements are damaged, what has the tenant lost if the building improvement actually belongs to the building owner?

The tenant has lost the “use interest” in the improvement. It is a possible loss of use of the improvement that gives a tenant an insurable interest.

Coverage for improvements and betterments are automatically included since the business personal property

section of the commercial property policy actually refers to a named insured’s “use interest” as tenant in improvements and betterments.

It is important when determining a limit for business personal property to consider the value of improvements and betterments.

Slip and Fall Claims

One-third of all workplace accidents are the result of slips and falls, averaging a little more than 500 deaths per year. Some of these injuries are to employees who then claim workers' compensation benefits, many times exaggerating the injuries. Sometimes the employee will actually be hurt playing football on Sunday, yet file a work-related injury report on Monday.

A common problem for every business that receives the public is an exposure to the slip and fall claim. There is no precise way to determine when someone is legally responsible for a slip and fall. Each case turns on whether the property owner acted carefully so that slipping or tripping was not likely to happen, and to what extent the injured party was careless in not seeing or avoiding the situation causing the trip or fall.

Experts tell us that for a property owner or employee to be responsible for someone else's slip and fall, he/she must have:

- Caused the slippery or dangerous surface or item to be underfoot
- Known of the dangerous surface and failed to warn of the exposure
- Known of the dangerous surface and failed to repair or remove the condition as a "reasonable person" would

In determining a property owner's "reasonableness," the law concentrates on whether the owner makes regular and thorough efforts to keep the property safe and clean.

Some questions that would be asked are:

- How long has the condition that caused the accident existed?
- Does the property owner have a regular routine of inspecting and maintaining the premises?
- Was the fall caused by tripping over something placed or left on the floor or ground, and was there a legitimate reason for the object to be there?
- If there once was a legitimate reason for the object to be there but that reason no longer exists, could the object have been removed or otherwise made safe?
- Was it negligent to have that object in that location in the first place? Was there a safer place the object could have been located, or could it have been placed in a safer manner?
- Was there a proper warning or barrier?
- The slip and fall exposure presents a unique challenge to property owners. Through common sense approaches to maintenance and care of your premises, you can dramatically reduce the risk of an injury.

Defenses To The Slip And Fall Claim

If you do an Internet search on "slip and fall claims," it will return 61,800,000 results. The National Floor Safety Institute estimates that the average cost of a slip and fall workers' compensation claim is \$4,000, and the average liability award for injury to a customer or other third-party runs from \$60,000 to \$100,000 per claim. The most obvious defense to slip and fall claims is carelessness on the part of the injured party. The claims adjuster will focus on key questions about the claim:

- Was there a legitimate reason to be in the place of the accident?
- Should a careful, "reasonable" person have noticed and avoided the danger?
- Was there a warning posted?
- Did the injured party contribute to the injury by doing something that distracted his/her attention, such as running or acting in a way that made falling more likely

Because of the subjectivity of many of these slip and fall claims, more and more businesses are installing surveillance cameras to help detect fraud. This is a very real threat, and awards can many times be enough to close a business' doors permanently.

Your Duties If You File a Claim

The commercial policy requires certain duties of the policyholder when a claim is submitted. As part of the claim process the insurer may examine you under oath. After a loss, you must promptly forward a notice of loss to the insurance company. The notice should include a description of the property and details of how, when and where the loss took place. Ultimately, a signed and sworn proof of loss must be sent to the company.

The police must be notified if a law may have been broken in the course of the loss. You are required to protect the property from further damage, and keep track of any costs for emergency or temporary repairs necessary to protect your property. Finally, you must cooperate with the insurance company. Cooperation may include providing books and records to support the claim.

This process looks ominous on the surface, but is usually a painless and simple process. Understanding the various roles we play in the claim process can dramatically expedite the handling of your claim.

