

Insurance for “Loss of Attraction”

In San Ysidro, California, a small white memorial marks the site of a former McDonald's restaurant where 21 people died and 19 were wounded in a mass shooting in July 1984.

The restaurant itself sustained little damage, and could have resumed food service operations after cleaning and repairs. But it was torn down two months later, “after residents made it clear they did not want to eat where the massacre had taken place,” according to the *Los Angeles Times*.

Similarly, the original Sandy Hook Elementary School was physically able to house a grade school following the mass shooting there in December 2012, but the state of Connecticut funded its demolition and replacement. We don't need to ask why.

As another anniversary of the Las Vegas shooting approaches, we can breathe a sigh of relief for the resilience of America's adult playground. But suppose the gunman had carried out his rampage on the casino floor of the Mandalay Bay? Could anyone ever again enjoy games of chance at that site?

Expanded Scope

If you ask most seasoned real estate or property insurance professionals about insurance for “loss of attraction,” they will probably know of it as a well-established business income coverage. Retail businesses, in particular, have long insured themselves for the losses they might incur if a major attraction in their area, such as an “anchor” department store, suspended operations due to a peril insured under their own property policies.



In recent years, the idea of “loss of attraction” has taken on a broader and more ominous implication, and property owners should be aware that insurance is now available to address abrupt declines in business due to the perception that an area has become dangerous, undesirable, or inaccessible.

In the wake of terrorist attacks and mass shootings, loss of attraction coverage, with or without property damage, has become a common component of property insurance in continental Europe and the United Kingdom.



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This innovation is starting to expand in the United States, principally as an income coverage within “active shooter” policies. One such policy, provided by MacGowan Program Administrators, includes coverage for “building replacement costs,” even if the building is not damaged.

As another example, New Paradigm Underwriters, a Florida-based insurance intermediary, offers terrorism insurance that covers income losses, even in the absence of physical damage, due to events that occur:

- At specified locations;
- Within a given radius of the insured;
- At airports (if they cause closures and loss of access); and/or
- At insured locations (for revenue loss at other insured locations not directly affected).

Also, coverage is available for loss of attraction arising from acts of terrorism that affect the distribution of electrical power.

Evolving Considerations

The more the value of a business or property depends on the attractiveness of its general location, the more important loss of attraction insurance becomes. Prospective buyers should be prepared for several considerations when shopping for the coverage.

First off, buyers need to be clear on what constitutes a loss under the coverage.

Some provisions may cover only “non-damage denial of access,” meaning that incidents or public authorities must actually close off access to insured premises before coverage is triggered. Losses from the mere presence of demonstrators, disturbances, or threats — no matter how disruptive or intimidating to patrons — might not be covered.

Along that line, policies may specify whether triggering events, such as the occupation of premises by demonstrators, must be unlawful, and whether the insured’s actions in response are forced or voluntary.



As for the perils triggering coverage, some provisions may still be subject to the condition that a loss result from damage by an insured peril, but the general point of the coverage is to move beyond that limitation. In some cases, policies will only respond to losses in the wake of a violent act, human or natural; in other cases, the mere threat of an act may be sufficient to trigger coverage.

Insurance buyers should also be aware of casualty thresholds and ceilings sometimes found in “active shooter” insurance policies. Some policies do not respond to events where the number of victims is less than three or four, the implication being that the policies are intended to respond to “mass shootings.” Conversely, some policies do not respond if the number of casualties exceeds a certain number.

In almost any event, there will typically be a time element deductible (a specified number of hours or days) and a time limit (in days or weeks) for coverage, plus a limitation on the geographic area and/or locations where it will be applied.

Unfortunately, there’s a lot to think about when you have to consider the unthinkable.

