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MEYERSDAL TRAGEDY HIGHLIGHTS CONSTRUCTION CONCERNS

August 21, 2014 Christy van der Merwe Main article, Short term



The collapse of a structure in the Meyersdal Eco Estate in Johannesburg, which claimed the lives of seven construction workers has reignited concerns among the insurance industry over slipping standards in the construction and engineering sectors in South Africa.

Construction and engineering underwriter Mirabilis' CEO Russel Myers tells *RISKSA* that the lack of training and skills within the construction

sector means that vital skills are not being transferred, across all disciplines.

He adds that compliance with safety regulations is often lacking, and this is compounded by the fact that local authorities should be undertaking regular inspections at construction sites, but the capacity for this is constrained.

The Meyersdal Home Owners Association (HOA) confirmed that seven workers were killed in the incident, and nine workers hospitalised. "The Meyersdal Eco Estate along with Jurgens Bekker attorneys shall set up a trust for the families of the deceased. The trust will accept donations from the public and will raise funds for several weeks, which will be distributed among the families of the deceased," said the HOA in a statement.

The two contractors on site, confirmed to be Renico, and Rominco, were in the process of making alterations to the existing home when the collapse occurred. The National Home Builders Registration Council (NHBRC) sent a structural engineer and an inspector to the site to investigate and find the cause of the disaster. The NHBRC will then decide whether it falls within the ambit of the Housing Consumers Protection Measures Act.

The NHBRC confirmed with RISKSA that Rominco is registered with the council, although could not confirm whether or not the building plans had been approved, as this was done by the city council.

Charlé Halgryn, MD at sectional title and community schemes specialist underwriter Corporate-Sure (C-Sure), explained some of the risk considerations for an HOA, which is registered as a Section 21 Company governed by the Companies Act.

Firstly, the HOA is responsible for insuring all common areas against damage and public liability, however, each of the individually owned properties within the HOA, must be insured by the homeowners at their own expense.

Secondly, says Halgryn, owners must get permission from the HOA if they intend to make changes that will affect the external structure of the building. HOA's generally also establish sets of rules and regulations for the complex and communal areas, as is the case with Meyersdal Nature Estate, which determines that only contractors registered with the NHBRC must undertake construction work within the Estate. It also determines that owners/employers will, ultimately, be

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held liable for any damage or unreasonable disturbance inflicted on the Estate by the building contractor or any other party in his employ.

INSURANCE IMPLICATIONS

C-Sure explains that a number of insurance implications would apply to those affected by this tragedy – firstly, at the property at which the renovations were carried out. The building contract will set out who has which obligation to arrange the various insurance policies needed. These include: construction works; public liability; and the existing property.

It is important to note that if building plans were not approved, the owner and/or the contractor can be held jointly and severally liable for causing the injuries and deaths, as they are not allowed to endanger lives by bypassing certain prescripts.

HOA's cannot control contractors' safety habits and negligence claims can easily end up in court. "While it might seem that in this tragic situation the HOA wouldn't be liable for any damages related to the incident, survivors might sue the HOA if the contractor doesn't have insurance. Whilst the HOA's liability insurance will not defend or pay for work-related injuries or death, it is always recommended that the HOA purchase their own workmen's compensation insurance to cover incidents similar to this," says Halgryn.

Many people do not realise that HOA's fall under the Companies Act, which can potentially place huge responsibilities on the directors of the HOA for any misconduct or claim. This means that potential claimants can go after the HOA directors for compensation for any injuries or losses specifically associated with the common areas of the HOA, hence directors must also ensure appropriate cover is in place – which is available through specialist insurance providers, adds Halgryn.

Simon Colman, underwriting executive at Stalker Hutchison Admiral (SHA) notes that liability claims can run into millions of Rand. "A recent engineering Professional Indemnity claim exceeded R50 million, highlighting the fact that a small building company could even face liquidation as a result of liability claims if no effective cover was in place."

Colman explains that liability based insurance cover responds to the threat of litigation and covers defence costs, as well as costs associated with damages. Due to the complexity of liability cover it is very important to try and control the insurance elements of a contract by using one broker, with as few policies in place as possible, to cover the entire contract, advises Colman.



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About Christy van der Merwe

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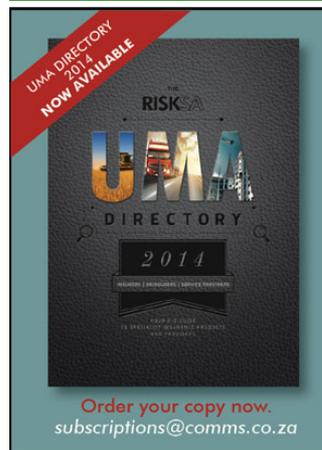


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