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## CASE SUMMARY: HOMEOWNERS' POLICY FOR REBUILDING COSTS INCLUDED COVERAGE FOR COSTS ARISING FROM COMPLIANCE WITH REGULATORY POLICIES

A homeowners' policy excluding coverage for increased costs of repair or replacement due to operation of any law did not exclude increased costs of replacement due to compliance with regulatory policies.

### Insurance law – Homeowner's insurance – Exclusions – Interpretation of policy

*Emond v. Trillium Mutual Insurance Co.*, [2022] O.J. No. 4347, 2022 ONSC 5519, Ontario Superior Court of Justice, September 29, 2022, R.M.R. Bell J.

The insureds brought an application against their home insurer seeking indemnity for the costs of rebuilding their house which was destroyed in a flood. The policy included a guaranteed rebuilding costs coverage endorsement ("GRC endorsement"). The insureds' rebuilding costs were increased due to a conservation authority's regulatory policies. The insurer's position was that the insureds should not be indemnified for these increased costs as the policy excluded the increased costs of replacement "due to the operation of any law".

The court rejected the insurer's argument, and held that the increased costs resulting from compliance with the regulatory policies was covered by the GRC endorsement. The policy's exclusion for the increased costs of repair or replacement due to operation of any law regulating the zoning, demolition, repair or construction of buildings was restricted to laws; it did not apply to exclude increased costs that were the result of any rules, regulations, by-laws, or ordinances. This interpretation was in accordance with the nullification of coverage doctrine, which provided that even though an exclusion clause may be clear and unambiguous, it will not be applied where (i) it is inconsistent with the main purpose of the insurance coverage and the result would be to virtually nullify the coverage provided by the policy; and (ii) to apply it would be contrary to the reasonable expectations of the ordinary person as to the coverage purchased. The insurer's interpretation of the policy would have the effect of rendering nugatory the coverage for the most obvious risks for which the GRC endorsement was issued.

This case was digested by [Kora V. Paciorek](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Kora V. Paciorek at [kpaciorek@harpergrey.com](mailto:kpaciorek@harpergrey.com).