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Massachusetts Court Address Coverage For Preventative Maintenance

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In *Roche Bros. Supermarkets, LLC v. Continental Cas. Co.*, 2018 Mass. Super. LEXIS 81, the court addressed whether an all risk commercial property insurance policy that insures against risks of direct physical loss of or damage to property can be interpreted to include coverage for the costs associated with preventative snow removal. In granting the insurer's motion for summary judgment, the court held that no such coverage was available under the unambiguous terms of the policy. According to the complaint, due to excessive snow fall recorded during the winter of 2015, the insured paid significant sums to have preventative snow removal undertaken at several locations insured under the subject policy. The insured claimed these efforts were to prevent structural damage occurring at the locations.

The insured thereafter sought coverage for the sums expended, arguing that an ambiguity existed in the policy language such that it is reasonable to interpret the policy to include coverage for costs to prevent the risk that property will be lost or damaged. In finding against the insured, the court held that under the clear language of the policy, the insured's interpretation was not reasonable. According to the court, there was simply no language in the policy which could be read to cover the cost of eliminating risk. In support of its holding, the court noted that if the coverage clause is read to insure against expenses incurred in eliminating a risk of future property damage, there would appear to be no clause in the Policy covering actual property damage when it does occur. The court also found the lack of a valuation provision addressing preventative maintenance to be supportive of the holding.