

## Case Study: High-Rise Fire at Marina Sunset Hotel

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# Parties Involved

- Building parties
  - MSH: developer and hotel building owner
  - Global Architect Company: building architect
  - Middle East Contractors: building contractor
  - MSA OA: Owners' Association
  - Sunset Diner & Sunset Bar: food and beverage outlets
- Insurance parties
  - Middle East Insurance Company: a national UAE insurance company
  - Dubai International Brokers : direct insurance and reinsurance broker to MSA and UAE Insurance Company
  - London Re: lead reinsurer on policy with 30% share
  - DIFC Re: reinsurer with 10% share
- Insurance contracts
  - Composite PAR / TPL policy

# Subsequent Events and Issues

- Origin, cause of the loss and investigations
- Two fatalities – UAE national and American tourist
- Building manager of MSA arrested in connection with the fatalities
- Liability claims in the local courts and the courts of Michigan
- Owners claims for contents / LOR / AA
- Underinsurance
- AED200,000 judgment for death of the UAE national in criminal proceedings



# Loss Adjuster's Perspective: Cunningham Lindsey

# The Role of the Loss Adjuster



# The Role of the Loss Adjuster

- Establish the cause of the fire
- Obtain other information needed to determine whether the insurance policy will respond – e.g. compliance with warranties
- Recommend to Insurers the appointment of other experts as appropriate
- Evaluate the quantum of loss
- Communicate with Insurers/Reinsurers/  
Policyholders/Brokers/Experts



# Preliminary Considerations

- Identifying key decision makers
- Securing access for an initial inspection
- Establishing a working relationship with the policyholder and broker
- Requirement for additional Third Party or In-House expertise/resources
- Identifying all the interested parties and ownership structure
- Obtaining accurate policy information



# Preliminary Considerations

- Need to secure evidence for potential recovery
- Marina Sunset Hotel comprises hotel rooms and hotel apartments
- The hotel apartments are sold on a lease hold basis to TP owners
- The apartments are then either:
  1. Owner occupied
  2. Privately rented by owners
  3. Leased back to the hotel as pooled hotel rooms





## Preliminary Considerations - Liability

- Who are the potential claimants?
- Need current list and contact details of owners and tenants
- Obtain & review tenancy contacts
- Agree communication protocols with the owners/tenants
- Whose liabilities are covered by the policy?
- Tenant / Owner separate insurance arrangements



# Coordination of the Team

- Allocating roles to the adjusting team:
  1. Team coordinator
  2. Inspection teams
  3. Liability claims adjuster
  4. MEP inspections
  5. Debris Removal / Salvage
  6. Business Interruption / LOR / AA
  7. Clerk of works



# Coordination of the Team

- Recommendation to Insurers and Reinsurers regarding appointment of:
  1. Building consultants
  2. Quantity Surveyors
  3. Lawyers
  4. Forensic Accountants
  5. Structural engineers



# Reporting and Reserving

- When to do this
- Reserving philosophy of Insurers
- Factors that may affect duration – especial Dubai Municipality requirements for code compliance
- Coverage issues that may have a significant affect on quantum
- Adequacy of sums insured – steps taken to assess and agree VAR



# Access to the Building

- Safety considerations
- Safety of surrounding property
  - need for rope access
- Who controls post-fire access to MSH? Police / Insured
- Securing valuables / passports etc.
- Who should be given access and who decides?



# Salvage

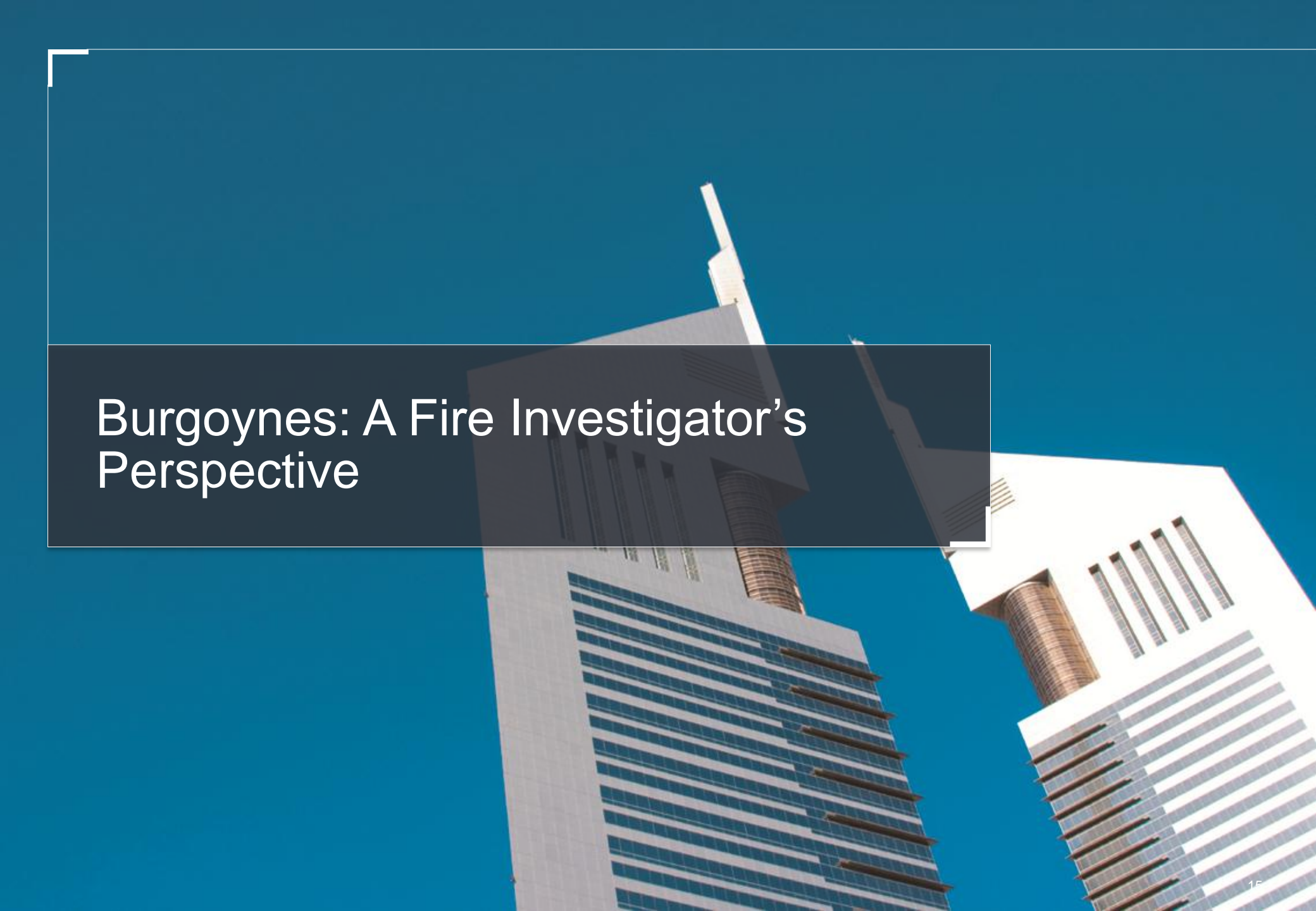
- Initial assessments
- Ownership of damaged items
- Removal of food & perishables
- Practicality of removing items without further damaged being caused
- Limited access as only 1 elevator working on generator power
- Any interest from buyers



# Relationship with the Policyholder

- Initially requires daily meetings and written follow-up
- Planned content of meetings
- Limit participants
- Openness in objectives
- Discussion on time lines – what is realistic in terms of expectations of the stake-holders
- Identify coverage issues early and explain the implications





# Burgoynes: A Fire Investigator's Perspective



# The Role of the Fire Investigator

- The role of the fire investigator
- Investigation / cause of loss
- Recording of evidence
- Working with the authorities
- Reporting



# The Role of the Fire Investigator

- To establish the cause of the fire
- To collect and preserve the evidence
  - a physical inspection of the scene
  - photographic record / contemporaneous notes
  - interviewing key witnesses
  - collection of electronic and documentary records

# The Role of the Fire Investigator

- To establish the circumstances of the incident
  - who was there?
  - what were they doing?
- Consideration of warranty conditions
  - design, provision and maintenance of fire detection and fire fighting systems
- Preparation of expert report(s) for litigation

# Instruction and Initial Action

- Fire on Marina Sunset Hotel - evening of 4 July 2016
- Instructions were received on 5 July 2016 from Cunningham Lindsey to investigate the cause and circumstances of the fire on behalf of insurers and reinsurers
- Meeting held with Facilities Manager of MSH later that day
- Background to the incident
- Police remained in control of the scene and access was not possible until 12 July 2016

## Investigation - Circumstances

- Two MSH staff working in the loading bay on 4 July 2016
- At 1830 hours, one of them saw smoke rising from a pallet of cardboard boxes just outside loading bay
- Left scene to fetch nearest fire hose, 15m away
- When they returned, flames and smoke had developed
- No water released from the hose, the flames got higher, and the ACP exterior of the building became involved
- Manual call point actuated - fire alarm began to sound
- Anecdotal evidence that the sprinkler system did not operate

# Investigation - Physical Inspection

- Severe fire damage to the entire west elevation
- Lowest damage in the service area of the lower ground floor
- Characteristic 'V' pattern extending from ground level adjacent to one of the loading bay doors
- Secondary fires caused by burning pieces of cladding falling from building and being transported laterally by the wind

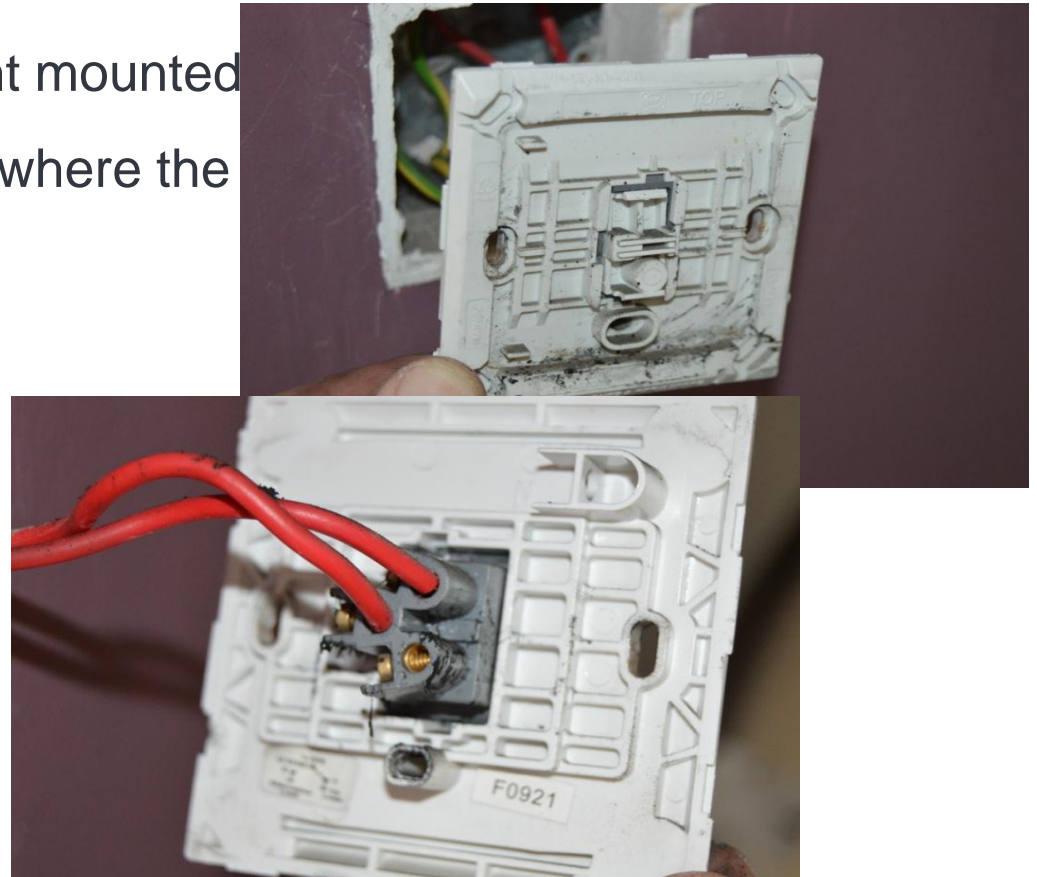
# Investigation - Physical Inspection

- No remains of the pallet of cardboard boxes were found
- Removed by Police/Civil Defence
  
- “No smoking” signs
- Hundreds of cigarette ends
- Makeshift ashtrays



# Investigation - Physical Inspection

- Electrical equipment - floodlight mounted on the wall above the location where the pallet was stored
  - Switch 'OFF'
  - Wired correctly
- No other heat producing equipment or materials in the area





# Investigation - Fire Detection System

- Examination of the fire alarm system event log
  - a smoke detector in the lower ground floor activated
  - alarm status was not confirmed until loading bay workers actuated a manual call point
  - no sprinkler activity until fire breached higher floors

15-04-25 08:13:39	4	Q42-02	NO.4 G/E EXH. GAS T/C IN TEMPDEG/C	570.00	569
15-04-25 08:20:05	9	Z-B5-168	NO.2 C/H BILGE (S) LEVEL HIGH		AL
15-04-25 08:20:19	9	Z-B5-168	NO.2 C/H BILGE (S) LEVEL HIGH		NOR
15-04-25 08:29:25	9	Z-B5-168	NO.2 C/H BILGE (S) LEVEL HIGH		AL
15-04-25 08:29:26	9	Z-B5-168	NO.2 C/H BILGE (S) LEVEL HIGH		NOR
15-04-25 08:31:45	10	W114	REFRIGERANT LEAKAGE HIGH		AL
15-04-25 08:33:31	10	W114	REFRIGERANT LEAKAGE HIGH		NOR
15-04-25 10:03:22	4	Q42-02	NO.4 G/E EXH. GAS T/C IN TEMPDEG/C	570.00	577
15-04-25 10:03:30	4	Q42-02	NO.4 G/E EXH. GAS T/C IN TEMPDEG/C	570.00	569
15-04-25 10:05:34	4	K07	NO.3 G/E LO INLET TEMP		INTK
15-04-25 10:51:36	9	BW185W	NO.1 BWTS COMMON ALARM		NOR
15-04-25 12:05:39	0	UNMANED	UNMANED IN TCR		AL
15-04-25 18:28:55	10	U083	LV SWBD LVSB ABNORMAL		NOR
15-04-25 18:29:00	10	U083	LV SWBD LVSB ABNORMAL		AL
15-04-25 18:29:00	10	W02	ESBD ABNORMAL		AL
15-04-25 18:29:18	10	W17-02	SMOKE DET. SYS (CARGO GAS SYS)		AL
15-04-25 18:29:37	11	W09	FIRE DETECTION SYSTEM FIRE ALARM		
15-04-25 18:30:19	10	W114	REFRIGERANT LEAKAGE HIGH		AL
15-04-25 18:30:53	12	J32-02	M/E NO.1 T/C LO P/P FWK FAIL		AL
15-04-25 18:30:53	12	LOT-02	NO.1 S/T LO P/P FWK FAIL		AL
15-04-25 18:30:55	10	W16-01	PROVISION REF. PLANT COMP. ABN		AL
15-04-25 18:30:55	10	W16-02	PROVISION REF. PLANT FANABNOR		AL
15-04-25 18:30:55	10	W80-01	AIR HANDLING UNIT ABNORMAL		AL
15-04-25 18:30:56	10	W15	ACCOMM. AIR COND PLANT ABNOR		AL
15-04-25 18:31:05	10	W15	ACCOMM. AIR COND PLANT ABNOR		NOR
15-04-25 18:32:57	10	W17-01	SMOKE DET. SYS FAIL(CARGO SYS)		AL
15-04-25 18:38:25	10	U083	LV SWBD LVSB ABNORMAL		NOR
15-04-25 18:38:29	10	U083	LV SWBD LVSB ABNORMAL		AL
15-04-25 18:41:29	5	V02	AUX. BOILER ABNORMAL		AL
15-04-25 18:42:08	10	W114	REFRIGERANT LEAKAGE HIGH		NOR
15-04-25 18:48:52	5	V01	AUX. BOILER TRIP		AL
15-04-25 18:49:10	5	V01	AUX. BOILER TRIP		NOR
15-04-25 18:49:14	5	V01	AUX. BOILER TRIP		AL
15-04-25 18:49:28	5	V01	AUX. BOILER TRIP		NOR
15-04-25 18:49:28	5	V02	AUX. BOILER ABNORMAL		NOR
15-04-25 18:50:23	5	V01	AUX. BOILER TRIP		AL
15-04-25 18:50:56	5	V01	AUX. BOILER TRIP		NOR
15-04-25 18:51:43	5	V01	AUX. BOILER TRIP		AL
15-04-25 18:53:14	5	V01	AUX. BOILER TRIP		NOR
15-04-25 18:53:23	5	V01	AUX. BOILER TRIP		AL
15-04-25 18:53:48	5	V01	AUX. BOILER TRIP		NOR
15-04-25 18:53:57	5	V01	AUX. BOILER TRIP		AL
15-04-25 18:54:35	6	TC2244	HP TURBINE INLET STEAM PRESS LOW		
15-04-25 18:55:03	5	V01	AUX. BOILER TRIP		NOR
15-04-25 19:01:26	10	W17-01	SMOKE DET. SYS FAIL(CARGO SYS)		NOR
15-04-25 19:01:49	10	W17-01	SMOKE DET. SYS FAIL(CARGO SYS)		AL
15-04-25 19:03:32	10	W17-01	SMOKE DET. SYS FAIL(CARGO SYS)		NOR

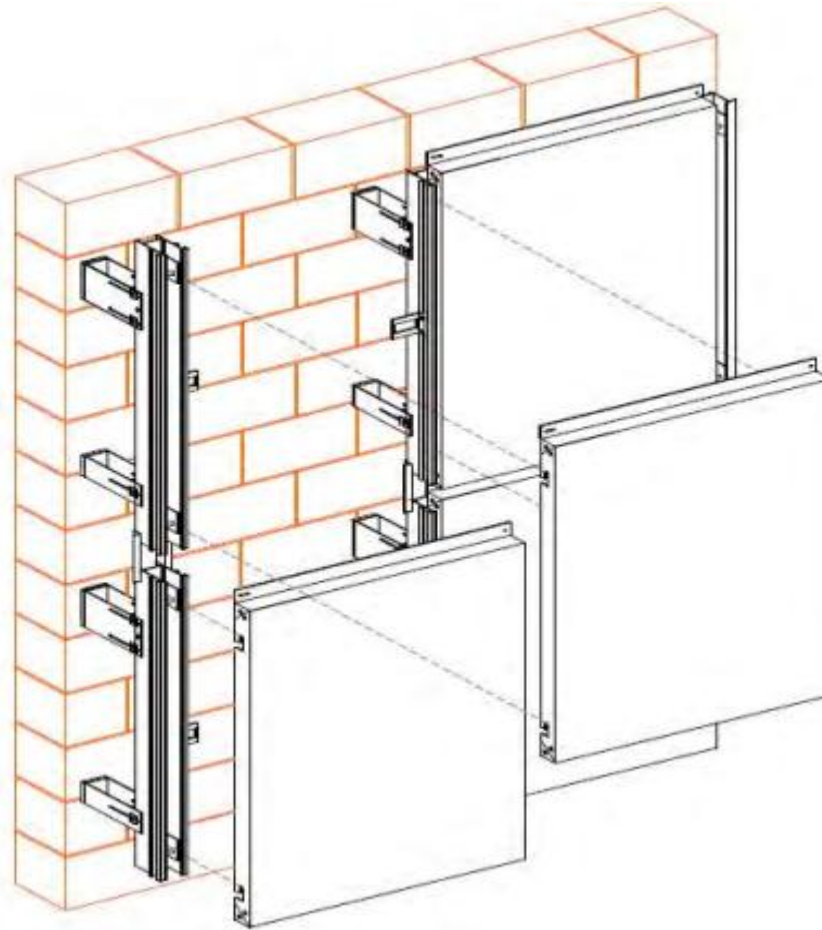
# Investigation - Fire Fighting System

- Examination of the sprinkler / fire hose pipework
  - zone control valve for lower ground floor was closed
  - all other valves open, system operated correctly but was overcome by sheer size of fire
  - fire pumps only started running once fire had breached upper floors
- Fire extinguishers
  - used to prop open doors on the lower ground floor

# Investigation - ACP Cladding



# ACP - Installation Technique



# Investigation - ACP Cladding

- Core was polyethylene plus fire retardants
- Difficult to ignite but nonetheless combustible if exposed to high enough thermal load
- Confirmation by *ad hoc* testing

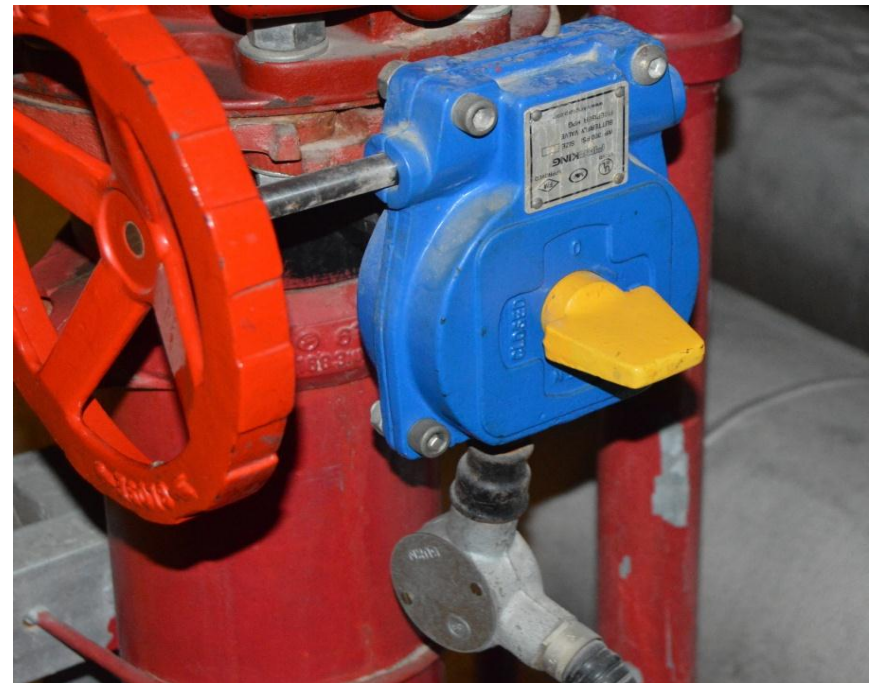


## Conclusions - Origin and Spread

- Fire originated at approximately 1830 hours on 4 July 2016
- Fire was initiated at or near to pallet of cardboard boxes stored outside the loading bay entrance
- Discovered by MSH workers
- Confined to a single pallet outside the building at that time
- Realistic possibility that they could have extinguished it

## Conclusions - Origin and Spread

- Local fire fighting equipment was not available
  - no maintenance agreement in place
  - breach of warranty / breach of local regulation and Code



## Conclusions - Origin and Spread

- Flaming fire developed and spread to ACP
- Combustible nature of ACP → rapid vertical fire spread
- Development of internal fires on multiple storeys
- Sprinkler system was quickly overcome



## Conclusions - Cause

- The only electrical equipment in the area was a wall-mounted floodlight
- Not energised / no evidence of an electrical defect
- No reports of unauthorised personnel in the area
- No hot work or other heat producing materials in the area

## Conclusions - Cause

- Widespread abuse of “no smoking” policy
- Cigarette ends deposited into makeshift ashtrays and directly onto the floor
- A glowing cigarette end in contact with cardboard can initiate a smouldering fire in the cardboard
- Transition to flaming: tens of minutes - a few hours
- Represents the most probable cause

# Issues to the Investigation

- 8 day delay to gaining access
- Disturbance / removal of evidence
- Difficulties in retrieving evidence removed from the scene
- General agreement in terms of the cause of fire

# Reporting

- Detailed report
- Illustrated with site photographs and plans
- Witness statements and key documents included as appendices
- Ongoing discussions with Clyde & Co, insurers, reinsurers
  - Compliance with warranty conditions
  - Compliance with local legislation
  - Subrogation issues



# A Forensic Accountants Perspective: MDD Forensic Accountants

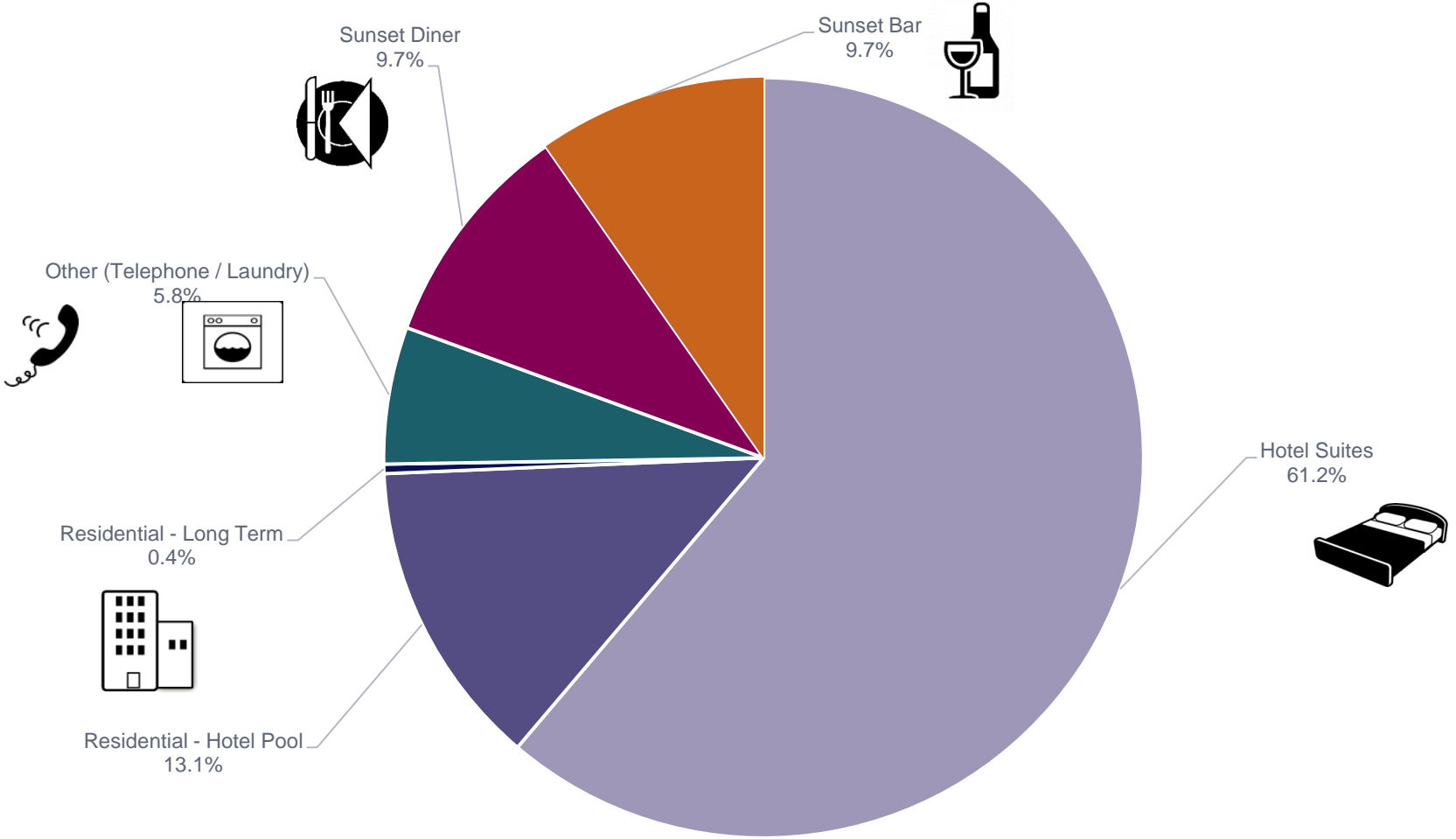
# Role of the Forensic Accountant

- Advise Loss Adjusters, Insurers and Reinsurers on quantum issues
- Usually Large / Complex claims of high monetary value
- Business Interruption (Loss of Gross Profit and Increased Cost of Working)
- Large Property Damage claims (including Stock and Contents)
- Independence / Objectivity
- Expert Witness Testimony (e.g. for Subrogation purposes)

# Case Study

- Date of Loss: 4 July 2016 (Fire incident)
- Hotel located Dubai Marina (Constructed January 2010)
- 400 Hotel Suites and Residential Apartments
- Food & Beverage Outlet on Ground Floor (Sunset Diner)
- Cocktail Bar on the first floor (Sunset Bar)
- Policy cover:
  - Business Interruption for 24 Month Maximum Indemnity Period
  - Loss of Gross Profit due to a reduction in turnover during the indemnity period and/or Increased Cost of Working
  - Business Interruption Sum Insured AED 150 million (not updated since 2010)

# Revenue Streams





# Projecting Revenue

**WE CAN CONSIDER:**

**Budgets Adjusted for  
Normal Variations to  
Budgets**

**Forecasts / Rolling  
Forecasts**


**Sales Projection via  
Regression Analysis,  
Market Analysis**

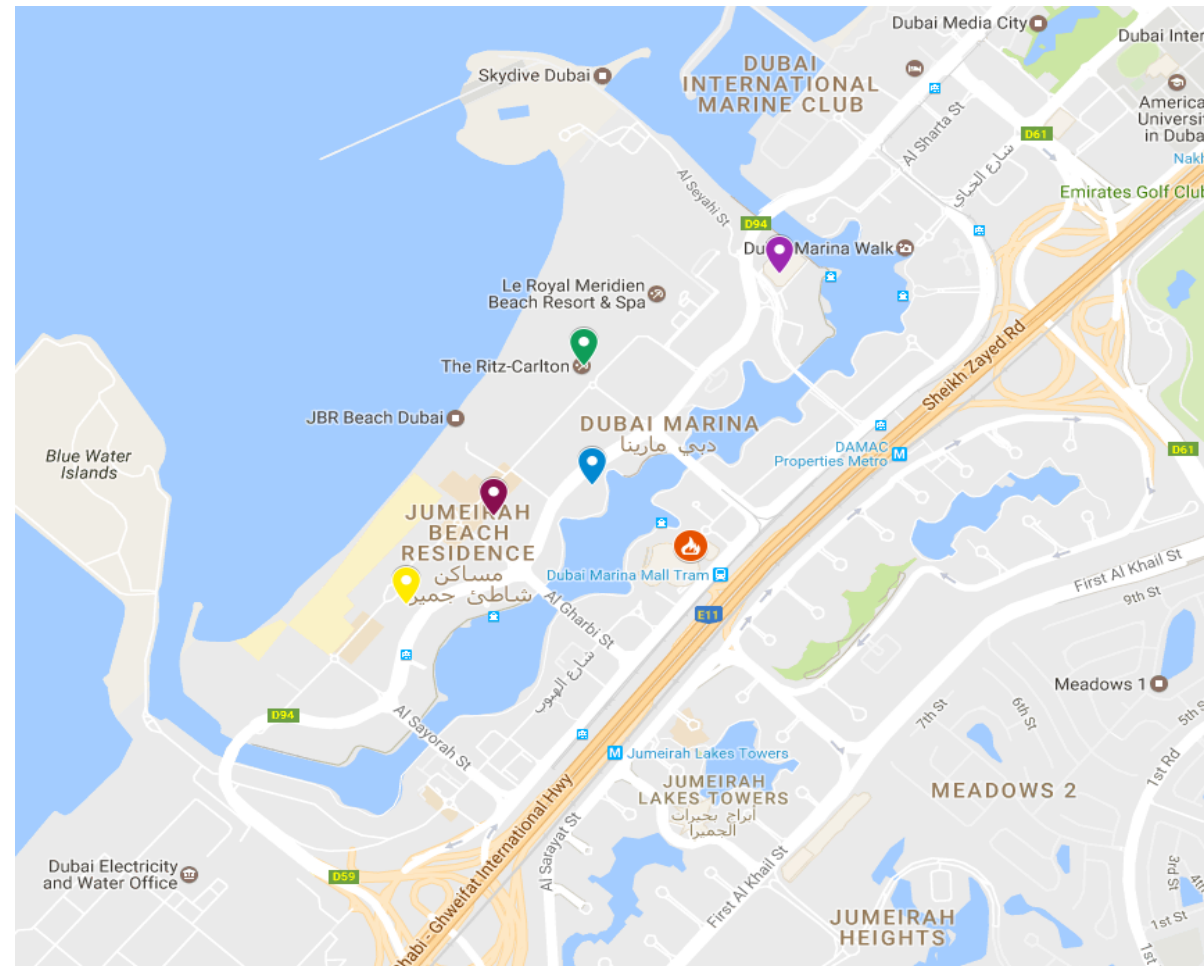
**Market Share, Industry  
Statistics**



**Strategic Plans**

# Industry Data – Competitive Set

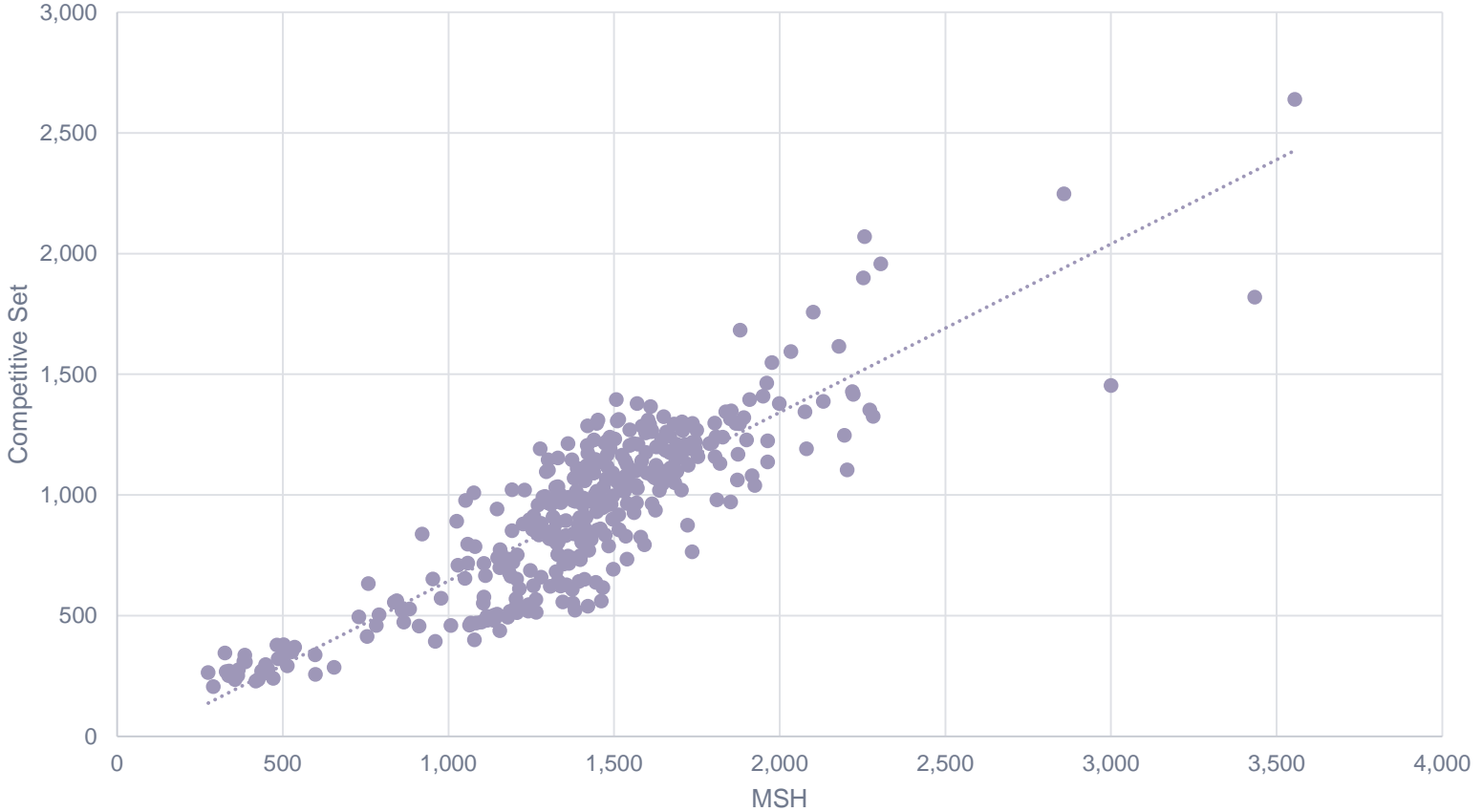
-  Marina Sunset Hotel
-  Sofitel Dubai Jumeirah Beach
-  InterContinental Dubai Marina
-  Grosvenor House
-  The Ritz-Carlton
-  Hilton Dubai The Walk



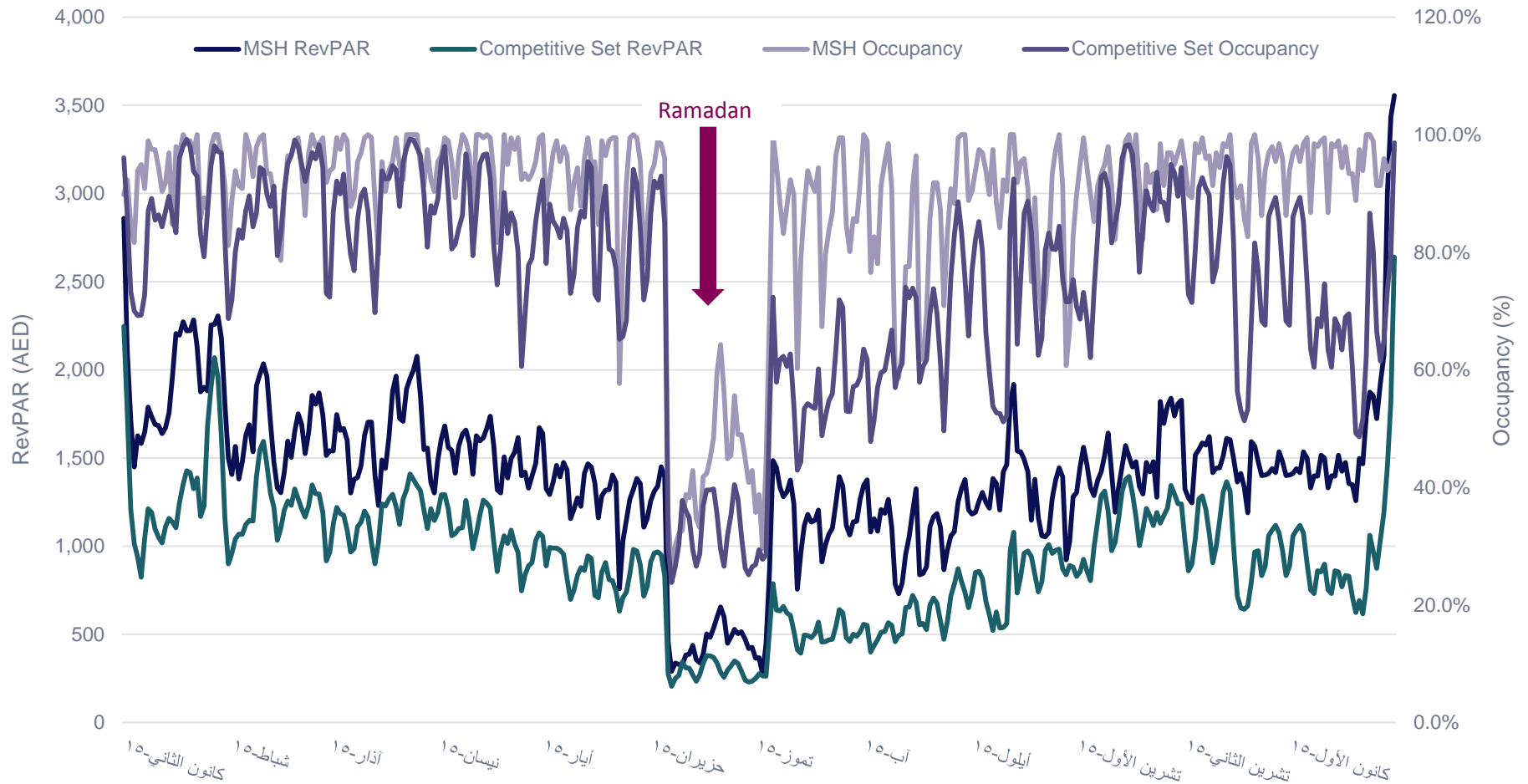
# Industry Data – Revenue Per Room

Revenue Per Available Room MSH Vs Competitive Set

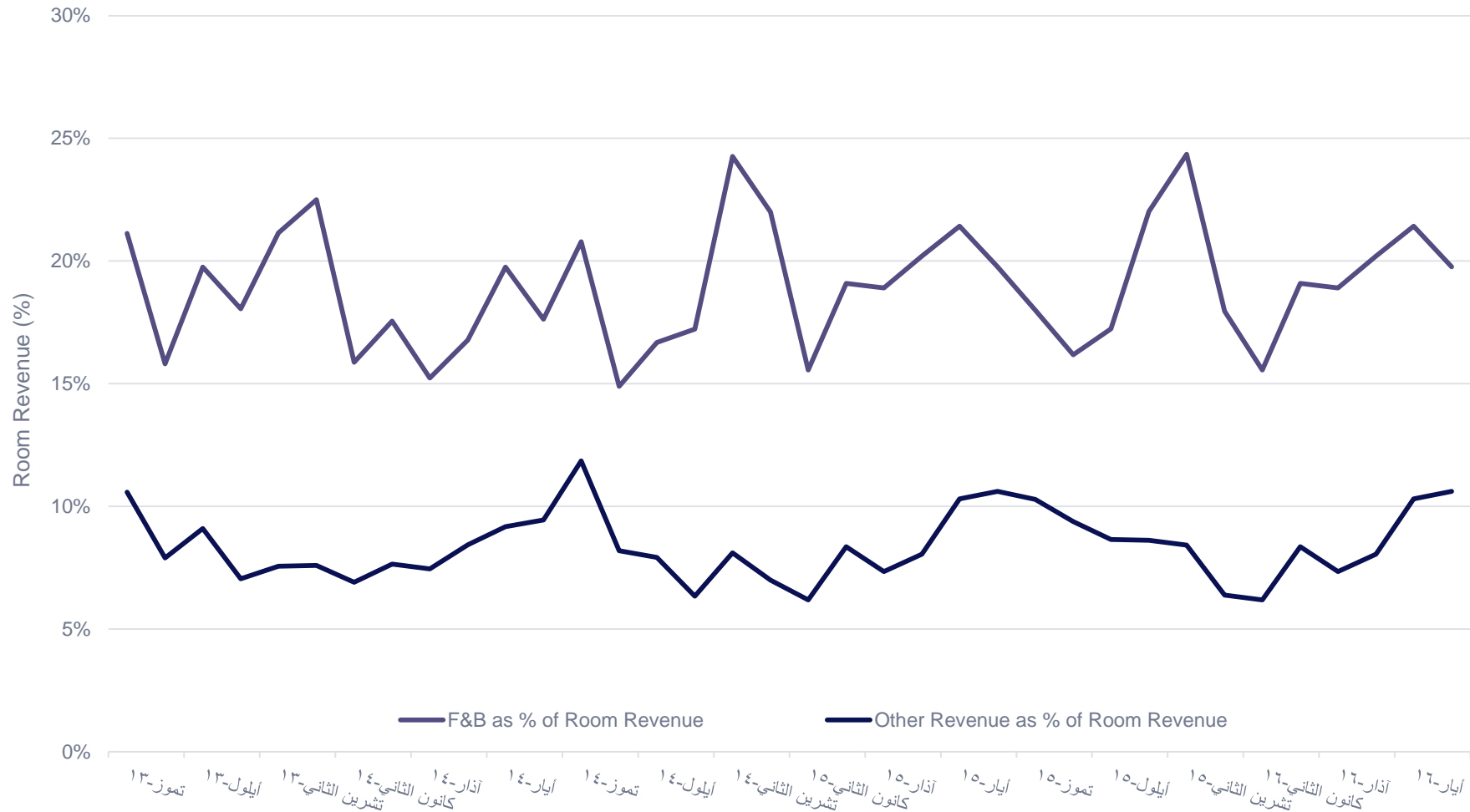
-   
**THE RITZ-CARLTON**
-   
**GROSVENOR HOUSE HOTEL**  
 DUBAI
-   
**INTERCONTINENTAL**  
 HOTELS & RESORTS
-   
**Hilton**  
 HOTELS & RESORTS
- SOFITEL**  
 HOTELS & RESORTS



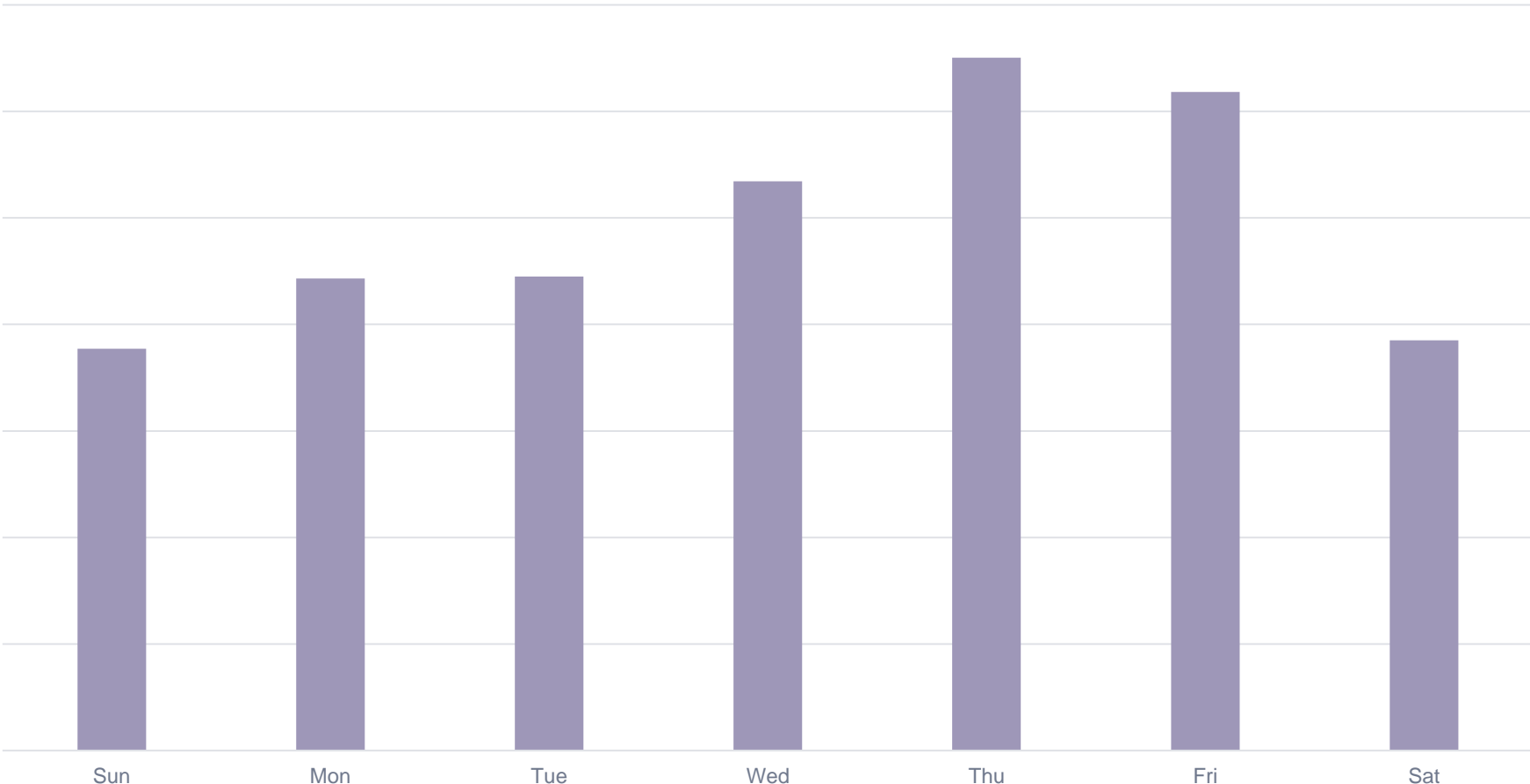
# Industry Data - Occupancy



# Projecting F&B / Other Revenue

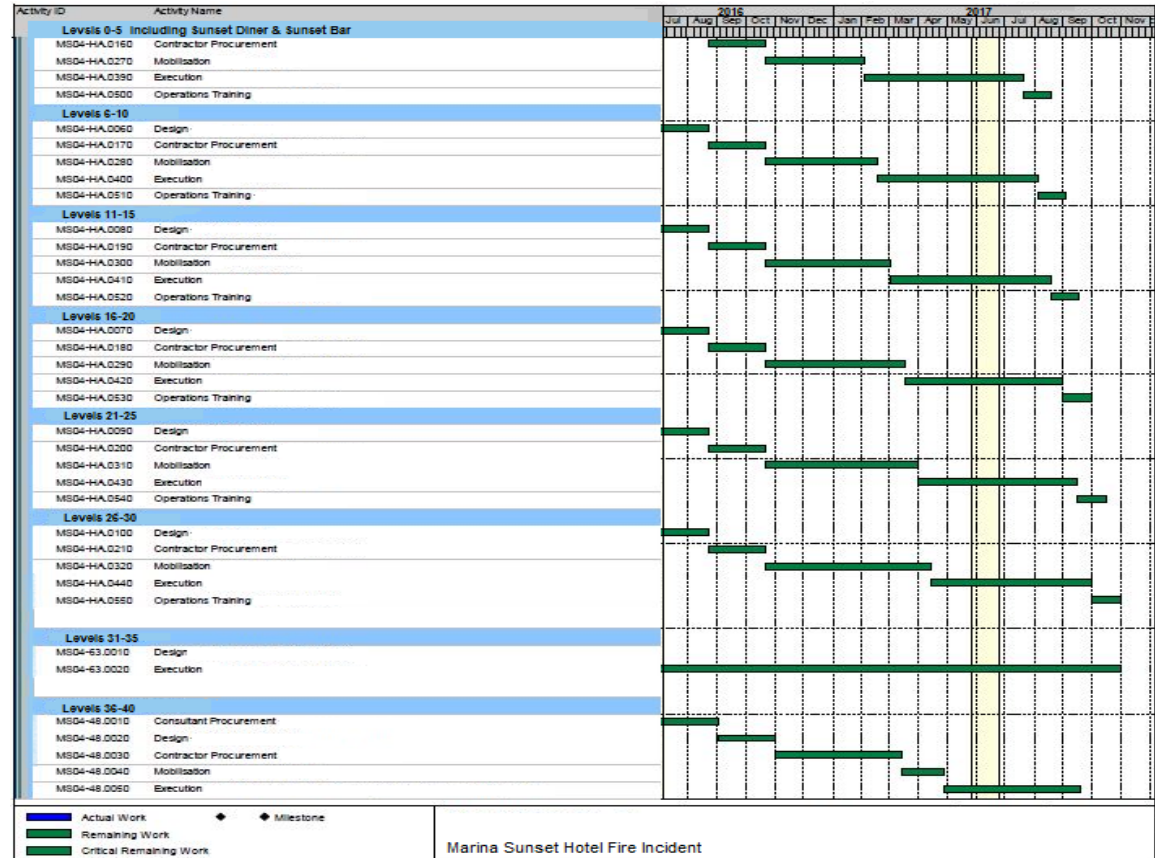


# F&B Average Spend



# Indemnity Period

- Maximum Indemnity Period 24 Months
- Period to restore Damage vs full refurbishment
- Delays (decision making / procurement / execution)
- Potential ICW to accelerate
- Timing of re-opening
- Ramp-up



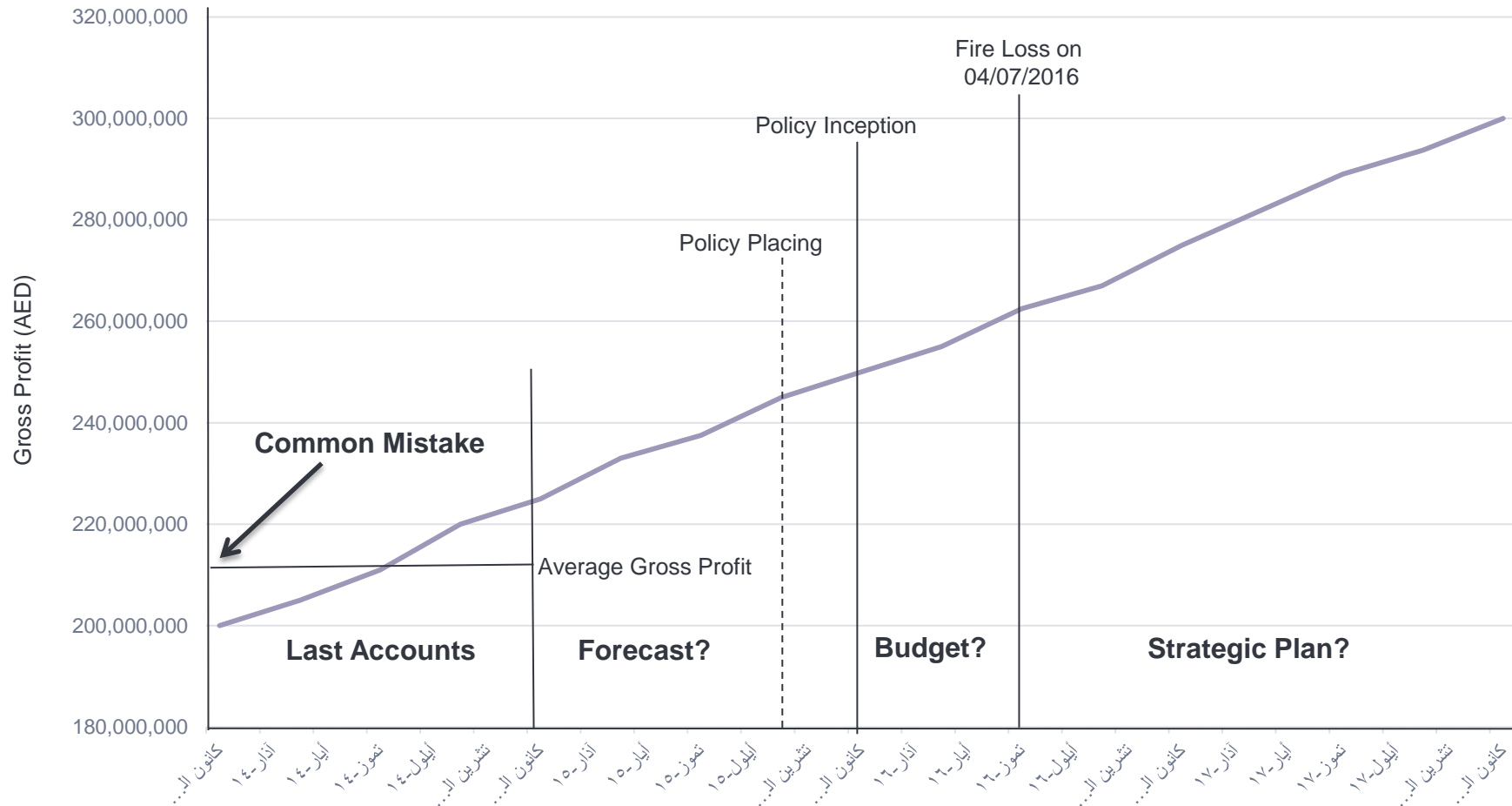
# Business Interruption Sum Insured

- AED 150 million (not updated since 2010)
- Does not take into account:
  - Increased Tourist Arrivals
  - Higher Occupancy Rates (and increases in other associated departments such as laundry / telephone)
  - Increased Room Rates
  - Sunset Diner – increased popularity (Brunch etc.)
  - Sunset Bar – celeb hang-out for Sundowners





# Adequacy of Sum Insured



# Adequacy of Sum Insured Calculation

Description	Revenue	Gross Profit Rate	Gross Profit
	<i>AED</i>	<i>%</i>	<i>AED</i>
<b>Rooms</b>			
Suites	206,955,000	90%	186,259,500
Residential - Hotel Pool	44,347,500	90%	39,912,750
Residential - Long Term	1,350,000	100%	1,350,000
Other (Telephone / Laundry)	19,710,000	85%	16,753,500
Sunset Diner	32,850,000	50%	16,425,000
Sunset Bar	32,850,000	70%	22,995,000
<b>Total</b>	<b>338,062,500</b>	<b>84%</b>	<b>283,695,750</b>
Sum Insured			150,000,000
<b>Adequacy</b>			<b>53%</b>



# Legal Considerations: Clyde & Co LLP

# The Role of the Legal Team

- Reviewing and considering the evidence
- Liaising with the investigative team
- Advising on coverage issues and reporting to re/insurers
- Preservation of legal rights
- Advising on the merits of recovery
- Obtaining a valid discharge



# Legal Issues (1)

- Evidence
  - Cause of the fire
  - Dubai Civil Defence report
  - Dubai Police report
  - Independent expert reports
- MSH PAR coverage
  - Fire Fighting warranties
  - Public authorities clause
  - Cause of damage
  - Underinsurance
  - Payment on account



## Legal Issues (2)

- MSH liability coverage
  - Criminal liability
  - Damages / DIYA
  - Territorial limits
  - Per occurrence limits
- Identity of Insured
  - Owners Association
  - Owners Interests
  - Valid discharge



# Reinsurance Issues

- Reinsurance conditions
  - Follow settlements
  - Claims cooperation
  - Retention
  - Law and jurisdiction
- Conflicts of interest
  - Middle East Insurance Company
  - Dubai International Broker
  - Reinsurance market position
- Practical considerations
  - Back-to-back cover
  - International wordings
  - Roles of intermediaries
  - Rights of reinsurers



# Q&A and Panel Discussion





# Recovery Issues: Clyde & Co LLP

# Recovery Prospects

- Documentation
- The Targets
- Cause of the fire
- Causes of action
- Time bar
- Damages under UAE law
- Defences

# Contact Details



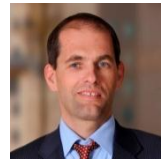
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