

Surviving the Loss of Your Home

By: [Linda E. Klamm, Partner](#)

This article is written in response to the wildfires in Napa, Mendocino & Sonoma Counties.

I lost my home in the 1991 Oakland Firestorm. As such, my heart goes out to the residents of Napa, Mendocino and Sonoma counties whose homes were damaged or destroyed, to the firefighters and first responders who have risked and are risking their lives, as well as to the community, which will also experience the aftermath of such devastating fires. I am also an attorney who specializes in handling insurance claims for policyholders and had the stress and challenge of handling my own claim with my insurer, as well as assisting many other Oakland Firestorm survivors in handling their claims.

Those whose homes were damaged or destroyed in the recent fires will face many challenges in the coming days and months — temporary shelter, replacement of necessary items, disruption of their lives caused by having to relocate temporarily or permanently, and the repair and rebuilding of their lives and homes. I would like to offer some professional, as well as personal, advice in the hope I can be of some assistance.

You probably have not read your homeowners' insurance policy. I am embarrassed to say that I had not read mine prior to the Oakland Firestorm and I am, as they say, in the business. Do not be surprised when you attempt to read your policy if you have difficulty understanding it, despite recitations and claims of being written in “plain English” or “easy to read” format. Please keep in mind that even professionals do not agree on every reading and interpretation and no one is born with an innate understanding of insurance or how to pursue their personal insurance claim.

Your homeowners' policy likely provides a few basic coverages for your home, other structures, additional living expenses, contents-personal property, debris removal and landscaping. Initially, you will want to focus on obtaining an advance from your insurer to cover immediate necessities, food, and lodging. Most insurers involved in a catastrophic loss situation will readily issue advances from your contents and additional living expense coverages, usually in the \$5,000-\$15,000 range. Many insurers



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will set up local catastrophic loss centers to handle such requests and adjust claims. The easiest way to initiate communication with your insurer is to contact your insurance agent or broker.

Additional living expense coverage covers your expenses when you are dislocated from your residence as a result of it being rendered uninhabitable. This coverage is usually limited by a dollar limit or a time limit. Such coverage typically covers either your actual out of pocket expenses, such as increased meal costs, increased cost of commuting from a different location, cost of temporary residence, etc., or the reasonable rental value of your former residence. Most insureds opt for the latter method of determining their additional expense coverage as it is simpler, less time consuming to document and usually yields a greater dollar recovery.

As time progresses, you will be required to document your loss on an itemized basis. You will likely have replacement cost coverage, which means you will, upon proof of replacement, be entitled to the cost of replacing lost items up to the limits shown in your policy. For items that you do not immediately replace, the insurer usually will pay you "actual cash" value for those items until you do replace them. In order to determine the actual cash value of an item, the insurer determines the replacement cost of the item and then depreciates it for use, age or obsolescence. If you subsequently replace the item, you can then send the insurer a copy of the receipt and receive the difference between what you were paid before by the insurer for its actual cash value and what you spent to replace it. A frequently asked question is: what is the replacement cost of an item which is no longer made? You are entitled to replace such items, subject to your contents limits, with items of like kind and quality.

Eventually, you will be dealing with the cost of repairing or replacing your home. The first item you will likely have to deal with is removal of debris. Almost all policies provide coverage for debris removal as either a percentage of the limits for the house or in addition to the limits for replacement of your house.

Next, the insurer and you will be working on determining the cost of rebuilding/replacing your former home. Most likely you will have replacement cost coverage which will give you the replacement cost of your home up to some percentage in excess of your stated policy limits. Such an increase in coverage is typically 125% of stated limits. Additionally, you will likely have coverage for other structures, such as detached garages, decks and fences, with a separate coverage limit. You may also have coverage for necessary code upgrades, although such coverage will also have limits. Lastly, you will likely have coverage for landscaping. Even if you had native or natural landscaping, you are entitled to have it replaced, subject to the terms of your policy.

An issue that many of us dealt with in the Oakland Firestorm is that policies which provide replacement cost coverage usually require you to replace the structure before you are fully compensated for the cost of replacing the structure. Although you are provided some monies on an actual cash value basis for your structure prior to its replacement, it is not usually sufficient to complete construction. This posed a significant challenge for those who were less affluent, because they were financially incapable of fronting the monies necessary to complete their homes. After some negotiation the insurers agreed to fund replacement of residences as building progressed. I anticipate insurers will reach similar agreements in response to the current situation.

You may not wish to rebuild, but may wish to relocate. There are many considerations which go into such a decision and it can only be made by you in the best interests of you and your family. At the time of the Oakland Firestorm, most insurance policies required that you rebuild your home on your current lot in order to get full replacement cost. However, most insurers waived this requirement and now most policies no longer have these requirements. If you wish to relocate, let your insurer know as soon as possible. Even if

your policy requires rebuilding on your lot, most insurers will waive that requirement as you will likely be in temporary housing for a shorter period of time, which frequently decreases the amount the insurer has to pay for your additional living expenses. If you choose to relocate the insurer still pays you the cost of rebuilding/replacing your former home. You will also retain title to your lot and can sell it at a later date.

I was asked by many homeowners in the Oakland Firestorm and in subsequent disasters whether they need to hire an attorney. Most homeowners' insurance claims are resolved over a period of time through negotiation and with assistance from claims adjusters and contractors. Most claims adjusters are helpful and sympathetic to their insureds and will make every effort to guide you through the claims process. However, for most homeowners their home and its contents are their largest and most important investments. Consequently, you may wish to consult with an attorney who specializes in handling insurance matters to make sure that you avail yourself of all benefits you are entitled to under your policy. Additionally, if you feel at any time you are not being fairly treated by your insurer, you should either consult with an insurance coverage attorney and/or seek assistance from the California Department of Insurance.

Personal Thoughts:

When the Oakland Firestorm destroyed my home, I had two daughters, Katy who was 6 and Noelle, who was just shy of her 3rd birthday. My now former husband and I were lawyers and, heck, we were insurance coverage lawyers. We knew we could handle our claim and the situation. We relocated our family within a week into temporary housing and shortly thereafter went into contract to purchase a new home. We had no idea what lay ahead.

Replacing even the bare necessities is all consuming and exhausting. We were shopping both days of every weekend and almost every evening buying replacement items, clothes, furniture, etc. I wanted to keep my oldest in her school and my youngest in her preschool, so I drove a long commute from our temporary housing every morning and evening. When I wasn't driving or at work, I was working on the claim or shopping. My youngest cried every night and begged to go home. Even though we knew how to handle an insurance claim and were trained to handle an insurance claim, it was physically and emotionally exhausting.

About a month after the fire, my oldest came home with a flyer inviting all firestorm survivors to a special day at Marine World hosted by the Oakland, Berkeley and Piedmont fire departments. I indicated that we probably wouldn't be able to go because we needed to go shopping for "stuff" for our soon to be new home. Within an hour Katy had organized Noelle into a joint protest. They let their father and me have it. They told us we had become the "no fun" family. They were tired of not doing anything. They missed their friends, who now lived away from them and they missed us. They were right!

From that day forward we made sure that we had family day every weekend. We went to the event at Marine World and reconnected with other relocated friends. Katy and Noelle got to play with their friends and have fun. We learned to be nicer to each other; that not everything had to get done on a certain schedule and sometimes it was better if it didn't get done at all and that we had gotten the most important things out of the fire: ourselves.

None of us has ever placed the same importance on possessions. For a long time I resisted replacing many items, as I simply did not want as many things and frankly still don't. Most importantly we learned the importance of family and community and that we could survive a major loss in our lives and be the better for it.

Lastly, I would like to close my comments by congratulating the Firestorm Survivors on a job well done: you got the most important things out of your home, yourselves and your family. Many thanks to the firefighters and first responders who risked their lives and to the communities, family and friends who provided support and will provide support during the ensuing months.

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