

Surviving the Loss of Your Home

*by Linda E. Klamm
Partner at Hanson Bridgett,
Chair of the Insurance Coverage Practice*



Published by the Hanson Bridgett Insurance Coverage Practice

HANSONBRIDGETT.COM



This article was written in response to the wildfires in South Lake Tahoe and Southern California in the Summer and Fall of 2007.

I lost my home in the 1991 Oakland firestorm. As such, my heart goes out to the residents of Southern California and South Lake Tahoe whose homes were damaged or destroyed, to the firefighters and others who have risked and are risking their lives, as well as to the community, which will also experience the aftermath of such a devastating experience. I also am an attorney who specializes in handling insurance claims for policyholders and had the stress and challenges of handling my own claim with my insurer, as well as assisting many other Oakland firestorm survivors in the handling of their claims.

Those whose homes were damaged or destroyed in the 2007 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, 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.

Likely none of you have read your homeowners insurance policies previously. 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 policies if you have difficulty understanding them, 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 interpretation and no one is born with an innate understanding of insurance or how to pursue their personal insurance claim.

Your homeowners policies provide a few basic coverages for your home, other structures, additional living expenses, and contents-personal property. 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. In fact, it is my

understanding that several insurers have already set up local catastrophic loss command centers to handle such requests in your community and more will likely follow. The easiest way to communicate or locate 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 or being destroyed. This coverage is usually limited by a dollar limit or a specific maximum time limit. Such coverage typically covers either your actual out of

If you wish to relocate let your insurer know as soon as possible. Even if the policy requires building on your lot, most insurers will waive that requirement as you will be in temporary quarters for a shorter period of time, which decreases the amount they have to pay in additional living expenses.

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.

You will need to replace certain essential items of toiletries, clothes, etc. immediately. Most insurers will give you an advance on your contents claim with no specific proof of loss other than proof that your home was damaged or destroyed. As time progresses you will be required to document your loss on an itemized basis. Most of you will 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.

This means that the insurer will determine the replacement cost of the item and then depreciate 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 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 your former home. Many of you will have a form of 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, most of you will have coverage for other structures, such as detached garages, decks and fences, with an additional coverage limit. Many of you will also have coverage for code upgrades, although such coverages will also have limits. You will likely also 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 usually require you to replace the structure before you are fully compensated, although you are provided some monies on an actual cash value basis in the interim. 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 negotiations and with considerable help from the then Insurance Commissioner, now Lieutenant Governor, John Garamendi, the insurers agreed to either fund as building progressed or advanced funds. I anticipate the insurers will reach similar agreements in response to the current situation.

Some of 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 homes at their current sites. 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 the policy requires building on your lot, most insurers will waive that requirement as you will be in temporary quarters for a shorter period of time, which decreases the amount they have to pay in additional living expenses. Most insurers are ecstatic if the insured wishes to relocate, as it decreases the amount they ultimately have to pay. If you choose such an option 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. This is my response: 1) most homeowners insurance claims are resolved over a period of time through negotiation and with assistance from claims adjusters and contractors; and 2) most insurers are helpful and sympathetic to their insureds and will make every effort to guide insureds through the process. However, for most homeowners their home and its contents are their largest and most important investments. Consequently, it is advisable to consult with an attorney who specializes in handling insurance matters to make sure that you availing 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.

I would like to close with the following thoughts: first of all, to the Firestorm Survivors: Congratulations and good job, you got the most important things out of your home, yourselves and your family. Many thanks to the firefighters and others who risked their lives and provided support during this trying time.

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 exhausting. We were shopping both days of every weekend and almost every evening. 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, 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 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

We learned to be nicer to each other. We also learned that not everything had to get done on a certain schedule and sometimes it was better if it didn't get done at all. We learned that we had gotten the most important things out of the fire: ourselves. We also learned that only those things that had memories attached were truly important, for anything else could be replaced.

to be new home. Within an hour Katy had organized Noelle into a joint protest. They let their father and I 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. We learned to be nicer to each other. We also learned that not everything had to get done on a certain schedule and sometimes it was better if it didn't get done at all. We learned that we had gotten the most important things out of the fire: ourselves. We also learned that only those things that had memories attached were truly important, for anything else could be replaced. 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.

If you have any additional questions, please contact:



Linda E. Klamm
415.995.5084
lklamm@hansonbridgett.com

SAN FRANCISCO

425 Market Street, 26th floor
San Francisco, CA 94105
TEL 415-777-3200
FAX 415-541-9366
sf@hansonbridgett.com

NORTH BAY

80 E. Sir Francis Drake Blvd, Ste. 3E
Larkspur, CA 94939
TEL 415-925-8400
TEL 707-546-9000
FAX 415-925-8409
northbay@hansonbridgett.com

SACRAMENTO

980 Ninth Street, Ste. 1500
Sacramento, CA 95814
TEL 916-442-3333
FAX 916-442-2348
sac@hansonbridgett.com