


# Delay Deny Defend

FROM THE PERSPECTIVE OF A POLICY HOLDER

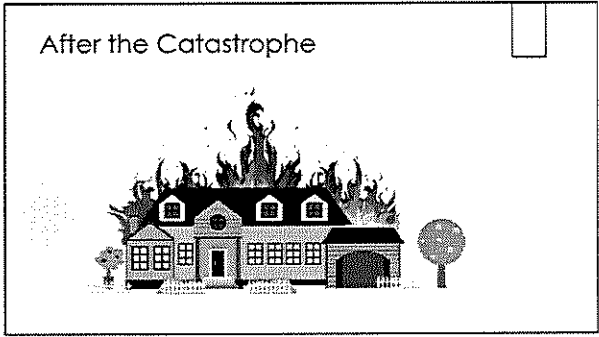


## Class Objective

- ▶ The Catastrophe Claim Process
  - ▶ Delay
  - ▶ Deny
  - ▶ Defend
- ▶ Preparing for a Catastrophe Claim
- ▶ Branch Construction Consultants
  - ▶ Services
  - ▶ Projects

## How Can This Seminar Help You?

- ▶ Education of the Claim Process
- ▶ Inventory and FAQ will prepare your clients for a Catastrophe Claim
- ▶ This information will comfort hesitant Clients seeking to relocate to a Hurricane and Flood region
- ▶ Prepare New Home Buyers with Documents to protect their investment
- ▶ This information will increase your clients favor toward your services



## Delay

FIRST THREE TO SIX MONTHS

- ▶ Terminology
- ▶ Agents / Claims Office
- ▶ Catastrophe Adjuster
- ▶ Estimates of Damages
- ▶ Photographs and Receipts

## Delay Terminology

- ▶ Insurance Lingo
- ▶ Every Word Matters
- ▶ Do not Embellish
- ▶ Conversations are Recorded
- ▶ Primrose Path
- ▶ Your Words Can Be Misconstrued
- ▶ Avoid Speculation

### Delay Agents / Claim Office

- ▶ Agents Only Files the Claim
- ▶ Agents are Rarely Involved with a Catastrophe Claim
- ▶ Agents are Concerned with Errors & Omissions
- ▶ Claims Office May Not Return Your Calls
- ▶ Claims Office Has been known to be Deceptive

### Delay Catastrophe Adjusters

- ▶ Visible Damages
- ▶ Busy Schedule
- ▶ Estimates Scrutinized by Carrier
- ▶ Lack Authority
- ▶ Satisfactory Proof of Loss
- ▶ Busy Season brings Inexperienced Adjusters
- ▶ Rarely involved with Disputed Claim

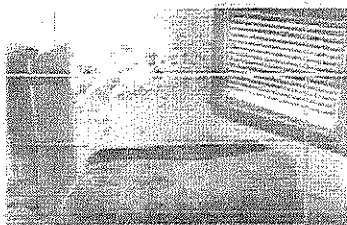
### Delay Estimates of Damages

- ▶ Line Item Estimate
  - ▶ Individual Pricing of Material and Labor Per Room
  - ▶ Insurance Computer Programs such as "Xactimate / Simsol"
  - ▶ Provided by a Contractor or Public Adjuster
- ▶ Will Multiple Contractor Bids Resolve my Catastrophe Claim?
  - ▶ Carriers Will Only Pay the Lowest Bid

### Delay Receipts and Photographs

- ▶ Only Provide Copies
- ▶ Adjusters and Insurers Lose Evidence
- ▶ Adjusters Photos are Unreliable
- ▶ Limited Amount of Adjusters Photos actually Used

### Delay Adjuster Photograph




### Delay

FIRST THREE TO SIX MONTHS

- > Terminology
- > Agents / Claims Office
- > Catastrophe Adjuster
- > Estimates of Damages
- > Photographs and Receipts




### Coverage Dispute Construction Defects



Most construction defects fall below one of four categories:

1. Design deficiencies
2. Product or material imperfections
3. Construction process failure
4. Operation and maintenance abuse

### Deny Total Loss



### Deny Total Loss

- ▶ Total Loss
  - ▶ Cost of Repairs Exceeds the Value of the Property
- ▶ Valued Policy Law
  - ▶ Requires Insurers to pay policy limits to the Policy Holder
  - ▶ Limited to Fire Claims
- ▶ Cost of Defense is less than the Value of your Loss

### Deny Policy

- ▶ Date of Loss
- ▶ Dates of Policy Coverage
- ▶ Premium Payments
- ▶ Was your Policy actually placed?

### Deny Low-balled Estimate

Summary for Coverage 4, Drawing	
Insurers Cost	1,241.75
Trust Adjustments for Risk Retention Charge	161.75
Material Sales Tax	195.22
Replacement Cost Value	53,394.22
Less Depreciation	2,062.14
Amort Credit Value	53,527.85
Less Depreciable	12,942.00
Net Claim	40,585.85
Total Recoverable Depreciation	306.14
Net Claim if Depreciation is Recovered	40,892.00

### Deny Low-balled Estimate

- ▶ Inevitable Inflation of Labor
- ▶ Fixed Storm Prices
- ▶ Sloppy Adjusting
- ▶ Red-Line Estimating

## Deny Denied Payment

Dear Mr. & Mrs. [REDACTED]

This letter will acknowledge The [REDACTED] Insurance Company's [REDACTED] receipt of the above-captioned claim and your request for additional consideration for repairs being done at your [REDACTED] New Orleans, LA.

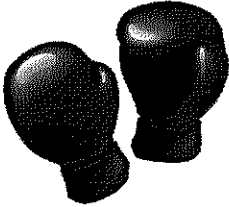
This loss was reported September 6th, 2012 with a stated date of loss of August 29, 2012. We completed a preliminary inspection of your premises on September 9, 2012. Our preliminary estimate was completed on October 15th totaling \$13,961.09 for covered storm damages. Your policy carried a \$16,460.00 Hurricane Deductible and since the covered damages did not exceed the policy deductible, no claim payment was forthcoming. On October 25th, 2012 we advised that your covered damages did not exceed your deductible.

## Deny

SIX TO TWELVE MONTHS

- > Coverage Disputes
- > Total Loss
- > Policy
- > Low-balled Estimate
- > Denied Payments

## Defending the Claim

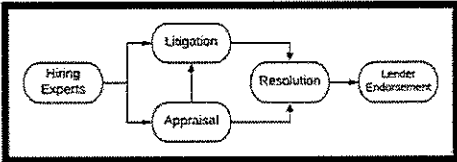


## Defend

ONE YEAR TO FIVE YEARS

- > Hiring Experts
- > Dispute Resolution
- > Lender Endorsement

## Defend Settling your Claim



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    graph LR
      HE[Hiring Experts] --> AP[Appraisal]
      HE --> LI[Litigation]
      AP --> RES[Resolution]
      LI --> RES
      RES --> LE[Lender Endorsement]
  
```

## Defend Hiring Experts

- > Contractor
- > Public Adjuster
- > Attorney
- > Engineer
- > Forensic Accountant
- > Insurance Appraiser

### Experts Contractor

<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>▶ Line Item Estimate</li> <li>▶ Does Repair your Property</li> <li>▶ Building Codes</li> <li>▶ Can Negotiate your Claim</li> <li>▶ Supplemental Claim</li> </ul>	<p><b>Cons</b></p> <ul style="list-style-type: none"> <li>▶ Global Number Estimates</li> <li>▶ Estimate only Building Coverage</li> <li>▶ Under Bid Loss</li> <li>▶ Unforeseen Costs</li> <li>▶ No Leverage</li> <li>▶ Rarely Testify in Court</li> <li>▶ Can't Resolve Coverage Dispute</li> </ul>
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### Experts Public Adjuster

<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>▶ 10% Contingency Fee</li> <li>▶ Line Item Estimate</li> <li>▶ Estimate All Coverages</li> <li>▶ Can Negotiate Your Claim</li> <li>▶ Supplemental Claim</li> </ul>	<p><b>Cons</b></p> <ul style="list-style-type: none"> <li>▶ Full and Final Settlements</li> <li>▶ Path of Least Resistance</li> <li>▶ No Leverage</li> <li>▶ Cost of Defense Threshold</li> <li>▶ Does not Repair Property</li> <li>▶ Can't Resolve Coverage Dispute</li> </ul>
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### Experts Attorney

<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>▶ Leverage to Settle Claim</li> <li>▶ Case Law</li> <li>▶ Depositions</li> <li>▶ Bad Faith Penalties</li> <li>▶ Can Negotiate your Claim</li> <li>▶ Can Resolve Coverage Dispute</li> </ul>	<p><b>Cons</b></p> <ul style="list-style-type: none"> <li>▶ Require Team of Experts</li> <li>▶ Few Specialized Attorneys</li> <li>▶ Depositions</li> <li>▶ Bad Faith Penalties</li> <li>▶ Charge by the Hour</li> <li>▶ Contingency Fee</li> <li>▶ Slow Court Process</li> </ul>
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### Experts Engineer

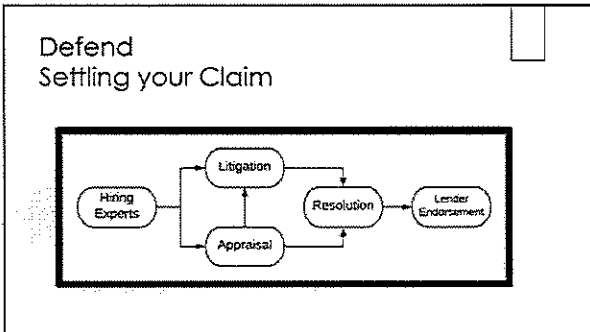
<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>▶ Determine Causation</li> <li>▶ Design Repair Work</li> <li>▶ Testify in Court</li> <li>▶ Can Resolve Coverage Dispute</li> </ul>	<p><b>Cons</b></p> <ul style="list-style-type: none"> <li>▶ Do Not Estimate Value</li> <li>▶ Talk Over Someone's Head</li> <li>▶ Required in some Claims</li> <li>▶ Can't Negotiate your Claim</li> <li>▶ No Leverage</li> </ul>
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### Experts Forensic Accountant

<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>▶ Business Interruption</li> <li>▶ Detailed Profit and Loss</li> <li>▶ Income Smoothing</li> <li>▶ Testify in Court</li> </ul>	<p><b>Cons</b></p> <ul style="list-style-type: none"> <li>▶ Expensive</li> <li>▶ Required</li> <li>▶ Lengthy Time Frame</li> <li>▶ Can't Negotiate your Claim</li> <li>▶ No Leverage</li> </ul>
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### Experts Insurance Appraiser

<p><b>Pros</b></p> <ul style="list-style-type: none"> <li>▶ Experienced Adjusters</li> <li>▶ Appraise Value of Damages</li> <li>▶ Line Item Estimates</li> <li>▶ Can Negotiate your Claim</li> <li>▶ Testify in Court</li> <li>▶ Additional Experts</li> <li>▶ Estimate All Coverages</li> <li>▶ Awarded Value is Binding</li> </ul>	<p><b>Cons</b></p> <ul style="list-style-type: none"> <li>▶ Can't Resolve Coverage Dispute</li> <li>▶ Rely on Attorney</li> <li>▶ No Leverage</li> <li>▶ Does not repair your property</li> <li>▶ Awarded Value is Binding</li> </ul>
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- ### Dispute Resolution Litigation
- ▶ Endless Re-Inspections
  - ▶ "Papering" Plaintiff Attorneys
  - ▶ Depositions
  - ▶ Billable Hours
  - ▶ Bad Faith Penalties
  - ▶ Typically a Longer Track
  - ▶ Claims Rarely Goes to Trial
  - ▶ Mediation Settlement
  - ▶ Typically Negotiated Value
  - ▶ Resolves Coverage Disputes

- ### Dispute Resolution Appraisal
- ▶ Alternative to Litigation
  - ▶ Limited Inspections
  - ▶ Non-binding Arbitration or Binding Arbitration?
  - ▶ Determines Value of Loss
  - ▶ Removes Argument Over Value in Court
  - ▶ Does not resolve Coverage Disputes
  - ▶ Typically a Shorter Track

### Dispute Resolution Appraisal Clause

Notwithstanding, if you and we fail to agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will choose a competent appraiser within 20 days after receiving a written request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or we may request that the choice be made by a judge of a court of record in the state where the described location is located. The appraisers will separately set the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss.

Each party will:

- a. Pay its own appraiser and
- b. Bear the other expenses of the appraisal and umpire equally.

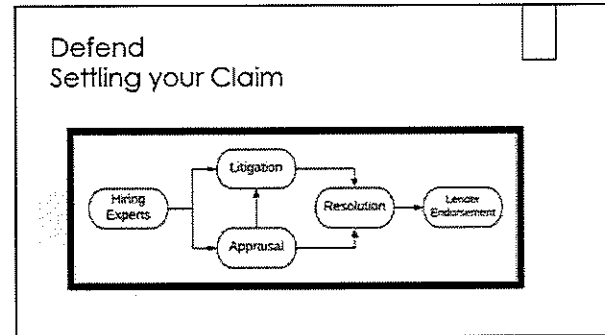
### Dispute Resolution Invoking Appraisal

Dear Mr. and Mrs. [REDACTED]

I am the appraiser for [REDACTED] insurance concerning your loss on 8/29/12. I need you to appoint an appraiser to represent you and have that person call me. Anyone other than you can be the appraiser just as long as they do not have a financial interest in the outcome of the award we make.

You will be responsible for paying your appraiser as is the carrier responsible for paying my charges. Should we elect to involve an umpire, both you and the carrier would be responsible for equal shares in that cost.

Please feel free to call me if you have any questions concerning this process.



### Defend Lender Endorsement

The image shows a sample Lender Endorsement form. It includes fields for 'Your Name, Attorney, Lender' and a monetary value of '\$100,000.00'. The form also contains a MICR line at the bottom: @5500045L76000 00000 1\*0000.

### Defend Lender Endorsement

- ▶ Lenders Coerce Policy Holder's to apply Insurance Proceeds to Loan.
- ▶ 1/3<sup>rd</sup> a 1/3<sup>rd</sup> a 1/3<sup>rd</sup>
- ▶ Court Registrar

### Defend

ONE YEAR TO FIVE YEARS

- > Hiring Experts
- > Dispute Resolution
- > Lender Endorsement

### Preparing for Catastrophe Claim

BEFORE AND AFTER LOSS

- > Adequate Policy
- > Property Maintenance
- > Mitigation of Damages
- > Inventory Contents
- > Video & Photographs
- > Timeline of Claim Process
- > Build Your Own Claim File

### Preparation Adequate Policy

- ▶ Verify Policy Exists
- ▶ Home Owner – Dwelling – Commercial – Builder's Risk
- ▶ 80% Co-Insurance Coverage

### Preparation Property Maintenance

- ▶ Save Receipts
- ▶ Take photographs
- ▶ Prevents Claim being denied due to Negligence





**Branch Construction Consultants Services**

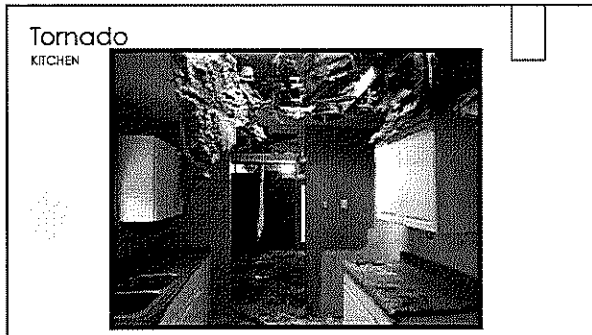
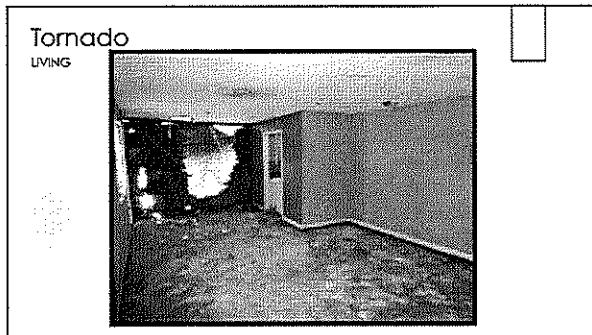
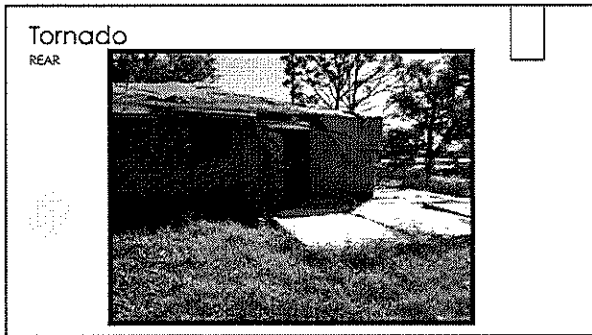
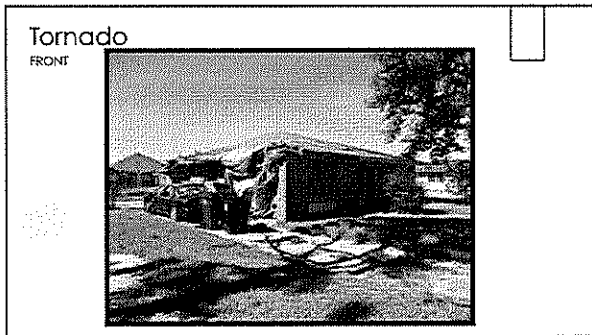
CONSTRUCTION VALUE EXPERTS

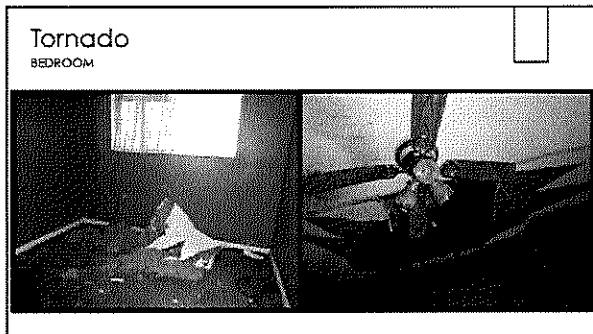
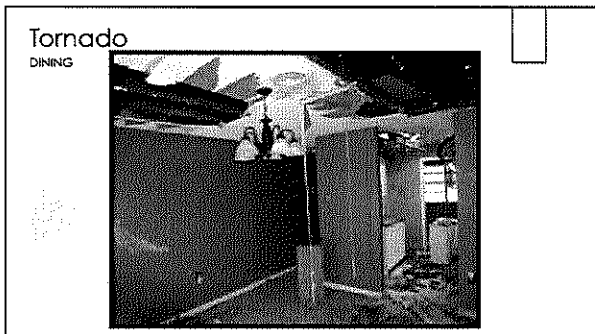
- > Appraisal
- > Line Item Estimates
- > Umpling for Appraisal
- > Expert Testimony
- > Inventory, Photographing and Documenting Property before a Loss

**Branch Construction Consultants Projects**

PAST AND PRESENT

- > Appraisal Exemplars
  - > Tornado
  - > Fire
- > Wind vs Flood
- > Make it Right Foundation

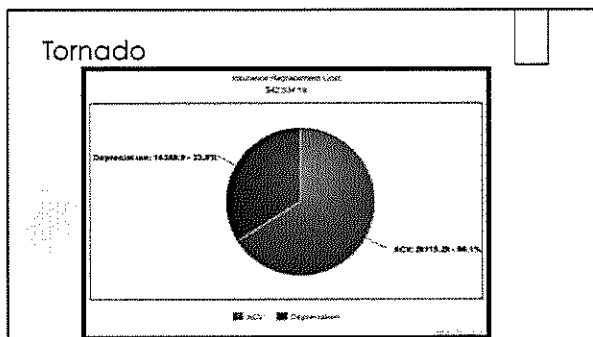




**Tornado**  
INSURANCE PAYMENT

Summary for Dwelling

Estimated Total	35,231.90
Overhead	3,170.00
Ford	2,170.00
Material Sales Tax	426.31
Replacement Cost Value	<b>31,565.59</b>
Less Depreciation	(14,384.90)
Actual Cash Value	<b>17,180.69</b>
Less Deductible	(1,000.00)
Net Claim	<b>16,180.69</b>
Total Economic Depreciation	14,384.90
Net Claim if Depreciation is Recovered	<b>30,565.59</b>

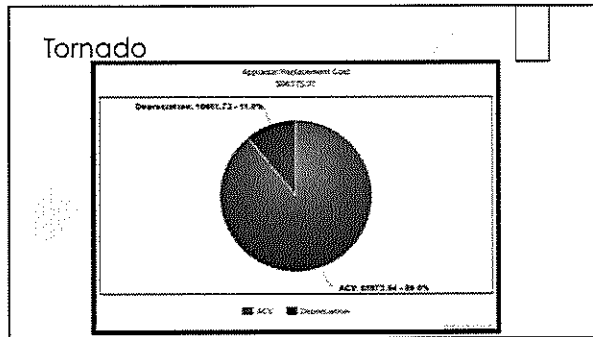


**Tornado**  
APPRAISAL AWARD

Appraisal Award

We, the undersigned, pursuant to our appointment, DO HEREBY CERTIFY that we have fully, conscientiously and impartially performed the service assigned to us in accordance with the Appraisal Provisions of the Policy and to hereby award to you the sum of **\$17,180.69** (Seventeen thousand, one hundred and eighty dollars and six cents) as the Actual Cash Value for the total amount of damage to the building as described in the caption above.

Coverage	Replacement Cost Value	Amount	Notes
Coverage A: Dwelling Loss	75,024.31	17,180.69	KC ✓
Coverage B: Other Structures	11,015.00	0.00	KC ✓
Coverage C: Personal Property	4,202.00	3,100.00	KC ✓
Coverage D: Loss of Use	3,222.00	0.00	KC ✓



### Tornado Appraisal Summary

- ▶ Appraisal Doubled Replacement Cost Value
- ▶ Appraisal Tripled Actual Cash Value
- ▶ Insurance Company Applied a 33.9% Depreciation
- ▶ While Appraisal Reduced Depreciation to 11%
- ▶ Appraisal Resolved All Coverages
- ▶ -1.5 years to Resolve Disputed Claim (February '17 – July '18)

Fire  
FRONT



Fire  
REAR



Fire  
KITCHEN

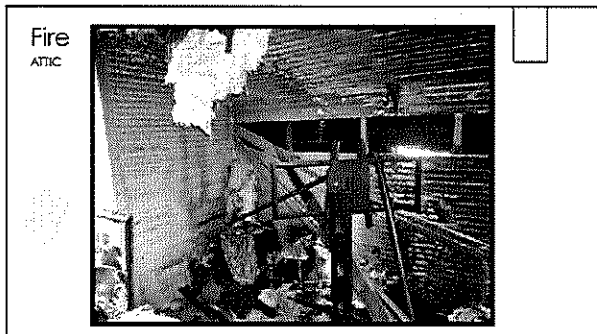


Fire  
DINING



Fire  
BED

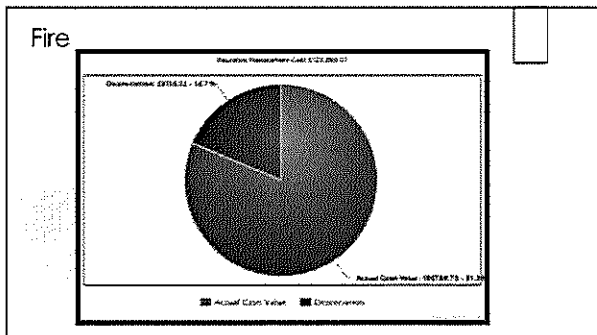




Fire  
INSURANCE PAYMENT

Summary for Dwelling

Loss Item Total			151,299.92
Total Adjustment for Base Service Charges			29.66
			151,329.58
Overhead	0%	18.0%	\$4,594.41
Profit	0%	18.0%	\$4,594.41
Material Sales Tax	0%	9.00%	7,619.89
Replacement Cost Value			\$23,308.97
Less Depreciation			(2,113.72)
Actual Cash Value			\$21,195.25
Less Deductible			(1,200.00)
Net Claim			\$19,995.25
Total Known/Identifiable Depreciation			33,213.22
Net Claim if Depreciation is Recovered			\$53,208.47

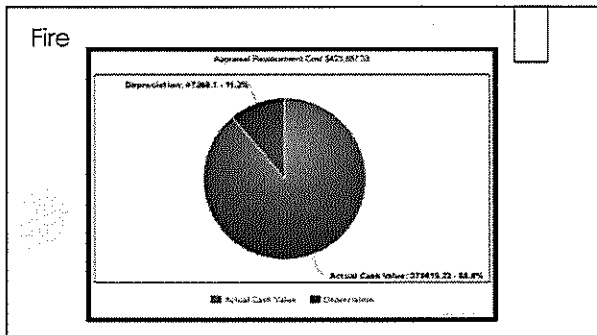


Fire  
APPRAISAL AWARD

We, the undersigned appraisers, do hereby certify that we have performed the duties assigned to us as appraisers for the appraisal of the above referenced insurance claim and have determined the Amount of Loss as specified herein.

Amount of Loss:

COVERAGE	REPLACEMENT COST VALUE	DEPRECIATION	ACTUAL CASH VALUE
Cov A Dwelling	\$285,459.72	\$23,066.22	\$262,393.50
Cov B Appur Structures	Not appraised	Not appraised	Not appraised
Cov C Perv Property	\$131,024.07	\$24,401.58	\$106,622.49
Cov D Loss of Use	Not appraised	Not appraised	Not appraised
Other - Remediation	\$4,403.54	-0-	\$4,403.54



- Fire  
Appraisal Summary
- ▶ Appraisal Tripled Replacement Cost Value
  - ▶ Appraisal Tripled Actual Cash Value
  - ▶ Insurance Company Applied an 18.7% Depreciation
  - ▶ While Appraisal Reduced Depreciation to 1.2%
  - ▶ Appraisal Maxed out Policy Limits
  - ▶ ~1 year to Resolve Disputed Claim (August '13 - September '14)

## Wind vs Flood

- ▶ Shifting the Burden of Damages from Wind to Flood
- ▶ Qui Tam lawsuits are a type of whistleblower lawsuit that is brought under the False Claims Act.

## Make It Right Foundation



## Make It Right Foundation

- ▶ Inadequate Water Treatment
- ▶ Inadequate Installation of Siding
- ▶ Improper balance of Heating and Air Conditioning
- ▶ House Wrap Installed Backwards
- ▶ Excessive Humidity
- ▶ Electrical Fire Hazard
- ▶ Improper Installation of Sewage Lines
- ▶ Inadequate Appliances

## Sources

