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The next step: Negotiating After losing home, owners must brace for claims work

By *Andrea Coombes, MarketWatch*
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SAN FRANCISCO (MarketWatch) -- Homeowners who've lost their homes -- whether it's Hurricane Katrina or a local fire -- often have another storm to weather afterwards: Negotiating with their insurer to maximize their claim.

From filing a timely claim and gathering evidence on how the house was damaged to making sure they don't forget to detail lost property, homeowners whose homes are damaged or destroyed have a mountain of work ahead of them.

And they can't always rely on their insurance company adjuster to be on their side during that process, said Marvin Milton, a public insurance adjuster with 47 years' experience.

Public insurance adjusters are independent adjusters who work for homeowners and other policyholders by preparing, filing and adjusting claims with the insurance company on behalf of the policyholder. Policyholders, not insurers, pay public adjusters.

Public adjusters are quick to warn homeowners that insurance company adjusters are working for insurance companies, not policyholders.

"They may give you a nice pleasant smile, but their main concern is responding to their employer," said Milton, president of Anderson Kill Loss Advisors, a network of public adjuster firms nationwide, and senior vice president of Swerling Milton Winnick, a public adjuster firm in Wellesley, Mass.

"If you can be your own advocate, that's terrific, and most homeowners will have to do so," he said. "Just don't leave the decisions and calculations to the tender mercies of your insurer."

For instance, "they don't go around sweeping the corners to find things for a homeowner to claim. If you give them a claim and you left out some claimable items, usually the ordinary adjuster is not going to go finding [more] things for you to claim," Milton said.

While public adjusters can help homeowners with the claims process, they don't do it for free, generally charging about 10% of any money paid by the insurance company. Fee structures vary by state. For instance, Louisiana forbids public adjusters to charge fees on a contingent basis, so adjusters charge by the hour, Milton said.

Tips from a public insurance adjuster

For those unable or unwilling to pay a public adjuster, consider the following tips on maximizing your homeowner's claim.

Determine whether -- and be prepared to argue that -- damage occurred due to events covered by your policy. For instance, assess whether wind or flooding damaged the house, since separate policies cover flood damage. Or assess whether mold damage, which is often not covered, happened after wind destroyed the walls.

"The general rule is that if the damage is from below up, it's flood and if it's from top down, it's wind," Milton said.

"But there can be a concurrence of forces acting and hopefully the homeowner should bring to bear on the argument all the rational explanations that could ascribe the damage to the force of the wind [and] after the wind, the entry of ... water through the openings made by the windstorm," he said.

Also, make sure the insurance adjuster is using current estimates of construction costs, rather than costs based on old, predisaster formulas. After disasters, construction and repair costs often rise dramatically due to a shortage of workers and materials. Homeowners should get firm quotes from local, reliable contractors.

Cash the insurance company's check, but reserve your right to negotiate for more, Milton said.

"They might say 'here's what we've come up with and we'll give you a check for that amount,'" he said. Be sure to say, "I reserve my right to go back to the negotiating table if I find out the size of the settlement check is not adequate," Milton said.

"It's OK to take an interim check as long as ... the insurance company understands it's an interim payment and there's no release language on the check, no designation that this is a final settlement."

Gray areas

Homeowners should realize that claims decisions aren't always cut-and-dried, Milton said. "There are always a lot of gray examples," he said. "The insurance company's initial knee-jerk is to say 'that's not covered,'" but homeowners might be able to fight the decision.

He offered two examples.

Suppose you give piano lessons on a Steinway baby grand piano in your home, but you also play the piano for pleasure, and suppose you're policy covers "business personal property" to a limit of \$2,500.

Is your claim limited to the \$2,500 "business personal property" limit? Not necessarily, Milton said, noting that court decisions state that piano teachers can claim home pianos under personal property.

Or, suppose you want to do the repair or construction work yourself. Can you collect for it? The initial reaction of a claims adjuster might be "you can't profit at the expense of your insurance company," Milton said.

But most insurers will pay the fair value of your labor and materials to rebuild, if you provide evidence that's what you're charging.

How a public adjuster can help

On average, Milton said, a good public adjuster will improve your claims payment by 20% to 30%, though clearly that will vary depending on the circumstances and the adjuster.

But sometimes public adjusters can reap a big benefit for homeowners. In one case, a house suffered

water damage from a clogged drain system. The insurance company denied the claim because the policy excluded damage from underground water.

"The drain system had been clogged because a tree root had grown through it," Milton said.

"I made the argument that the proximate cause of the loss was an unforeseen, unanticipated event that was covered by an all-risk policy," which is the standard for an all-risk policy, he said.

"It took me three or four months, but I turned them around and the loss was settled for about \$95,000."

Still, he said, "most cases where the peril is pretty definitive, like a fire, the difference isn't going to be that remarkable. It's going to be in the range of 20% to 30%."

The National Association of Public Insurance Adjusters offers a database of accredited public adjusters. [Visit the Web site.](#)

"Speak to more than one and engage the one that you're most comfortable with from a personal standpoint and from a monetary standpoint," Milton said. "And beware of exaggerated statements about how well they're going to do for you. Beware hard sales pitches."

Andrea Coombes is a reporter for MarketWatch in San Francisco.

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