

[Insurers must pay even if home damage exceeds property value](#)

San Francisco Chronicle

Insured homeowners in California whose homes have been badly damaged, but not destroyed, are entitled to coverage for the cost of repairing them, even if that cost far exceeds the property's market value, under a ruling that has now become final.

The state Supreme Court unanimously denied review Wednesday of an insurance association's appeal from a lower-court decision favoring a Richmond homeowner, and also denied the insurer's request to bar use of the lower-court ruling as a precedent for future cases. The ruling is now binding on trial courts statewide.

The home was badly damaged by a kitchen fire in 2011. The insurer, the California Fair Plan Association, paid homeowner Marlene Garnes only the home's market value of \$75,000. But Garnes sued and won the right to coverage for \$320,549, the repair cost minus depreciation.

In a precedent-setting ruling in May, the First District Court of Appeal in San Francisco said a 2004 state law allows homeowners to recover repair costs even when their insurance policies are drafted more restrictively. Coverage is limited to fair-market value only if a home has been destroyed or damaged beyond repair, the court said.

"Courts have recognized that homes may have values to an owner that are distinct from economic worth, such as familiarity, comfort and the memories they invoke," Justice Therese Stewart said in the 3-0 ruling. She said the law gives insured homeowners the option of "remaining in the homes and neighborhoods they had chosen.

State Insurance Commissioner Dave Jones and the consumer organization United Policyholders filed arguments supporting the homeowner.

Garnes' lawyer, Dylan Schaffer, said Wednesday the ruling allows homeowners to rely on their coverage without worrying about fluctuating property values.

"The point of having insurance is to be able to fix your house, not to be able to make a profit," Schaffer said.



The California Fair Plan Association is a group of insurance companies commissioned by the Legislature in 1968 to cover homes in high-risk areas. Schaffer said no other insurer in the state has refused to pay full repair costs in such cases, a practice that is also being challenged in class-action lawsuits against the association in Los Angeles.

A lawyer for the association could not be reached for comment.

The case is California Fair Plan Association vs. Garnes, S242965.

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Source: <https://uphelp.org/insurers-must-pay-even-if-home-damage-exceeds-property-value/> Date: November 22, 2024