Restoring time and cost efficiency, confidence and fairness to property insurance claim appraisals

NAIC Summer Meeting, Seattle WA, 8/13/23
UP is a 32+ year old insurance consumer non-profit whose website, programming, volunteers and guidance help over 500,000 people each year.
Roadmap to Recovery® Program

Grant funded Recovery Efforts

- 2020 California Wildfires
- 2021 Colorado Marshall Fire
- 2022 California Wildfires

Donor/Sponsor supported recovery work

- 2023 CA Winter Storms
- 2022 Hurricane Ian, Tropical Storm Nicole
- 2022 Yellowstone Flooding (Montana)
- 2022 Southwestern Wildfires (NM)
- 2021 Louisiana Hurricane Ida

Find Help Directory and Ask an Expert Forum are extra critical in states where we’re not funded to do recovery work.
Roadmap to Preparedness Program

Helping people shop, avoid protection gaps/underinsurance

Rack cards, preparedness presentations, coordination with DOIs, realtors, financial institutions

Climate Change Adaptation assistance to property owners

Advancing mitigation support and insurance rewards
Advocacy and Action

Legislative and Regulatory Engagements:

CA: Mitigation Discounts, Annuity/Life Ins. Suitability Stds, CA Fair Plan, Post disaster claim improvements

CO: New wildfire survivor protections, Fair Plan creation

OR: New wildfire survivor protections, Mitigation discounts

Nat’l: Protection Gaps, Climate Change adaptation (NCOIL, NAIC, FACI) Consumer Disclosures re: rate increases, discounts, the Appraisal Process

Amicus Project: 32 Briefs filed in 2023 to date

Selected Issues:

- Water damage excluded as flooding
- Health Insurance Rates
- Scope of Cyber Coverage
- Choice of Law
- Occurrence
- Policy Interpretation
Disputes between insurers and insureds over the extent of damage, repair/rebuild costs are extremely common and technical (E.G. yards and grade of damaged carpeting, siding, roofing lumber, trades/subs, O&P)

It’s waste of time, money and judicial resources to involve juries and judges in disputes over building materials

Appraisal can be done without attorneys or litigation

An appraisal can be done in weeks or months

The appraisal process has become ”gamified,” contentious, expensive, time-consuming, some insurers are reputedly removing the clauses from their policies
Insurance Appraisal Simplified

STEP 1 — A dispute arises over the VALUE and/or EXTENT of an insured loss

STEP 2 — Each side (insurer and insured) picks an appraiser, the appraisers pick the umpire/neutral

STEP 3 — The two appraisers try to reach agreement on some or all items in dispute

STEP 4 — As to remaining issues, the appraisers and umpire review documents, photos, evidence

STEP 5 — Deliberations/Voting

STEP 6 — 2 out of 3 agree and write up and sign their decision OR 3 out of 3 agree (unanimous)

STEP 7 — DEcision/"AWARD"

STEP 8 — Deliver Decision/Award to carrier and insured to trigger payment or enforcement of the award

Coverage disputes generally cannot be resolved through appraisal

If parties can't agree on an umpire, court will appoint

Rules vary state by state on appraiser qualifications, selection, hearing process and costs

Appraisal findings are generally called an "award"

Unconfirmed = Force/effect of a contract
Confirmed by a court = Enforceable judgment
Appraisal. If [Company] or [Policyholder] disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and
b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, [Company] will still retain our right to deny the claim.
Appraisal clause variations

Appraisal. If you and we fail to agree on the actual cash value or amount of loss, either party may make a written demand that the amount of the loss be set by appraisal. Each party will select a competent and impartial appraiser and notify the other of the appraiser's identity within 20 days after the written demand is received. The appraisers will select a competent and impartial umpire. If the appraisers are unable to agree upon an umpire within 15 days, you or we can ask a judge of a court of record in the state where the residence premises is located to select an umpire. The appraisers shall then appraise the loss, stating separately the actual cash value and loss to each item. If the appraisers submit a written report of an agreement to us, the amount agreed upon shall be the actual cash value or amount of loss. If they cannot agree, they will submit their differences to the umpire. A written award by two will determine the actual cash value or amount of loss. However, the amount of the award shall be subject to all applicable provisions of the policy, including Section I -- Property Protection Conditions 2. c. (4) and 2. c. (5). Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally, except we will pay your appraiser's fee and the umpire's fee, if the following conditions exist:

a. You demanded the appraisal; and
b. The full amount of loss, as set by your appraiser, is agreed to by our appraiser or by the umpire.
Points of contention

Delays, expense, fairness, finality

Initiating Appraisal - Timely/untimely demand, stays litigation?

Appraiser Selection - Timing, neutrality, bias, court involvement

Umpire Selection - Timing, neutrality, bias, court involvement

The Appraisal Process – Formal/informal, discovery, hearing

Appraisal Award – Specificity, timing, enforceability, appealability, impact on pending litigation

Insider game/Good ol’ boy network/Revolving cast/Repeat bias
Possible NAIC engagement:

C Committee charge/Catastrophe Working Group workstream

CIPR workstream
Thank you!

- Consumer Liaison Committee members and meeting attendees for your time and attention
- APCIA for dialoguing with UP on a reform concept pilot
- UP volunteers who serve as Appraisers and Umpires
- The Insurance Appraisal and Umpire Ass’n https://www.iaua.us/
- Jon Wilkofsky, Author: The Law and Procedure of Ins. Appraisal