

# 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



JANUARY 11, 2023

### **Preschool and neighbors in San Francisco's Mission facing major storm damage repairs**

One of the biggest impacts from the pouring rain is now showing up as damage to private property. For a preschool in a residential neighborhood in San Francisco's Mission District, damage to a retaining wall has left young



JANUARY 9, 2023

### **Sneaky ways inflation affects your money in 2023**

Here are a few of the less well-known changes this year — some that could hurt your wallet, and others that could help. By now, you're probably familiar with the more obvious ways inflation affects your finances. Your money doesn't go as far at the...



JANUARY 5, 2023

### **Are Home Insurers Abandoning Communities Vulnerable to Climate Change?**

The U.S. Department of the Treasury makes an unprecedented move to find out if home insurers are abandoning communities vulnerable to climate change. Dozens of environmental and consumer groups are rallying behind the Biden



FEBRUARY 10, 2023

### **Gentrification by Fire**

The West's new climate is exacerbating housing inequality in the quintessentially blue state of California. Climate change and its most extreme consequences are pushing up the price of homes throughout much of the American West, as fires and flooding carve into existing housing stock and...



FEBRUARY 6, 2023

### **Policyholders Counting on Calif. High Court for COVID Loss Claims**

Courts around the nation have held that SARS-CoV-2 cannot cause direct physical damage or loss to property, but policyholder advocates are hoping the California Supreme Court will turn the tide. In a case that pits a concert organizer against its insurer, United Policyholders argues that...



JANUARY 24, 2023

### **Businesses and Residents Hope for Post-Storm Relief**

Costs continue to add up even with assistance from FEMA and flood insurance. When Watsonville resident Amy Thomas reached out to the Federal Emergency Management Agency (FEMA) for help, she had already paid thousands of dollars to repair damages caused by a spate of recent...

# Roadmap to Recovery® Program



SEP 28, 2022 – ACTIVE

## 2022 Hurricane Ian – Insurance Claim and Recovery Help Library

Hurricane Ian made landfall as a Category 4 Hurricane and caused extensive damage in late September, 2022 in regions throughout Florida and neighboring states.

## 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, FACL) 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

OREGON  
**Advocacy Win!**

House Bill 2982 has been signed into law allowing Oregonians who experience a total loss in a major disaster to receive a **70% payout of personal property** coverage without having to complete an itemized inventory.

United Policyholders. HB 2982



# Why focus on restoring time and cost efficiency, confidence and fairness to property insurance claim appraisals? "Appraisal is Broken"

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

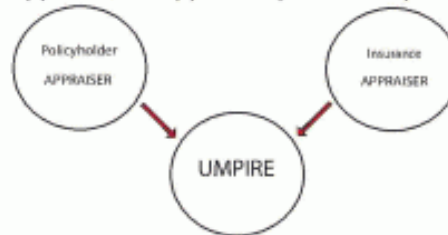
# Insurance Appraisal Simplified

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

★ Coverage disputes generally cannot be resolved through appraisal

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

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



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

**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"

★ Appraisal findings are generally called an "award"

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

★ Unconfirmed= Force/effect of a contract

Confirmed by a court  
=Enforceable judgment

# Appraisal clause variations

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/>
- David Princeton, <https://uphelp.org/wp-content/uploads/2023/06/230501-David-Princeton-Appraisal.pdf>
- Jon Wilkofsky, Author: The Law and Procedure of Ins. Appraisal