

# *What's in your appraisal clause?*

*Details, terms and many other things you need to  
understand about the appraisal process.*

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**READ THE POLICY!**

## B. Appraisal

If we and you 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.

# What causes the appraisal to be invoked?

- *If you and we Fail to agree*
- *If we and you disagree*
- *If the Insured and the Company fail to agree*

Basically if the insured presents their claim and the insurer doesn't pay or disagrees with the claim and after a "reasonable" effort was made in order to resolve the differences, then the appraisal can be invoked.

What do “we” disagree to or “fail” to agree to?

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.

# What do “we” disagree to or “fail” to agree to?

- *The actual cash value or if applicable, replacement cost of your damaged property to settle upon the amount of loss*
- *The actual cash value, amount of loss, or cost of repair or replacement.*
- *On the amount of Net Income and operating expense or the amount of loss*
- *The amount of the loss*
- *On the value of the property or the amount of loss*
- *On the actual cash value or, if applicable, replacement cost of your damaged property to settle upon the amount of loss,*

Although this is not critical in and of itself to define the “disagreement”, it will reflect on actually what is going to be appraised.

# What kind of appraiser do you choose?

- *Competent and impartial*
- *Competent and independent*
- *Competent, independent*
- *Competent and disinterested*

**Competent is defined as:** Properly or sufficiently qualified or capable or efficient

**Impartial is defined as:** Showing lack of favoritism; Free from undue bias or preconceived opinions; not partial; not favoring one more than another; treating all alike; unprejudiced; unbiased; disinterested; equitable; fair; just.

# What kind of appraiser do you choose?

**Independent is defined as:** Free from external control and constraint; "an independent mind"

If an appraiser is a preferred vendor for the insurance company do they qualify as independent and impartial?

If an appraiser is an IA that does work for the insurer exclusively – are they independent and impartial?

If the appraiser is a PA, who appraises losses for a particular law firm frequently, are they independent and impartial?



# What kind of Umpire do you choose?

## *An Umpire*

- *Competent and independent umpire*
- *Competent and impartial umpire*
- *Competent and disinterested umpire*

**Disinterested is defined as:** Not having the mind or feelings engaged: no longer interested: free from selfish motive or interest.

# Where do you go if you cannot agree on an umpire?

- *A judge of a court of record in the state where the covered property is located*
- *A judge in a court of record in the state where the residence premises is located*
- *A judge of a district court of a judicial district where the loss occurred.*
- *A judge of a court having jurisdiction.*
- *A judge of a court of record in the county and state in which such appraisal is pending*

# Where do you go if you cannot agree on an umpire?

*Usually it is appropriate to request the Umpire appointment in the county or district where the loss occurred. The question is which court. The language of the policy will dictate if it is required to be a court of record (which in the case of Texas Courts means no JP Courts) or a district court. Why is this important? The political air is different in each county and in each court. Just as many lawyers choose the “friendliest” court they can find to file their lawsuits, so too should appraisers seek the appointment from the court that suits them best – all defined within the appraisal clause.*

# What do the appraisers report?

- *The appraisers will separately state the actual cash value, the replacement cost and the amount of loss to each item.*
- *The two appraisers will then determine the amount of loss, stating separately the actual cash value and loss to each item.*
- *The appraisers will state separately the amount of Net Income and operating expense or amount of loss.*

# What do the appraisers report?

- *The appraisers shall then determine the amount of loss, stating separately the actual cash value and the amount of loss to each item.*
- *The appraisers will state separately the value of the property and amount of loss.*
- *The appraisers shall appraise the loss stating separately the value at the time of loss and the amount of loss.*

# What do the appraisers report?

*Determining “what” the appraisers report on is very important for your particular appraisal. You can see from the list that the language varies. If you are required to state a “value” for your property that may require additional information than if you are simply required to state the amount of the loss. If you are required to state the ACV and RCV then that requires more information than if you were to state strictly one or the other.*

# Requested information from the appraisers

- *If you or we request that they do so, the appraisers will also set:*
- *The full replacement cost of the dwelling, the full replacement cost of any other building upon which loss is claimed, the full cost of repair or replacement of loss to such building without deduction for depreciation.*

*Remember – this can be requested by the Insurer or the Insured – not the appraisers and you will need to include additional information if such a request is made.*

# What if the appraisers don't agree?

*If the appraisers fail to agree, they will submit their differences to the umpire.*



# What if any agree?

- *A decision agreed to by any two will set the amount of the actual cash value and loss, or if it applies, the replacement cost and loss.*
- *An itemized decision agreed to by any two of these three and filed with us will set the amount of the loss. Such award shall be binding on you and us.*
- *If the appraisers submit a written report of an agreement to you and to us the amount agreed upon shall be the amount of loss.*
- *A decision agreed to by any two will be binding*

*Not all policies state that the agreement of 2 of the 3 members of the appraisal panel is “binding”. Read what your particular appraisal clause dictates.*

# What kind of award?

- *An itemized decision*
- *An itemized decision agreed to by any two of these three filed with us will determine the amount of the loss.*
- *A written award agreed upon by any two will determine the amount of loss.*
- *An award in writing by any two shall determine the amount of loss.*
- *A decision agreed to by any two will set the amount of actual cash value and loss, or if it applies, the replacement cost and loss.*

# What kind of award?

*Many articles have been written and many discussions have been had concerning the necessity of **DETAIL** in your appraisal award. Until there is full clarity on this specific point, I suggest that you look at the particular clause to determine the amount of detail required.*

# Who pays the appraiser and umpire?

- *Each pays their chosen umpire.*
- *Each shares equally in the cost of the Umpire*
- *Each shares equally in the “other expenses of the appraisal”*
- *Each party ..equally bear expenses for...all other appraisal expenses.*
- *Other expenses of the appraisal and the compensation of the umpire shall be paid equally by you and us.*

# Who pays expenses?

*Many of the policies seem to add additional language that state each party will share equally the “other” appraisal expenses.*

*This brings up a whole new issue about what exactly are those expenses? If the Umpire wants additional testing or experts to detail the damages...regardless of who performs them, will both parties pay for this.*

# Is it binding?

*It depends:*

- *Does the award adhere to the terms of the clause?*
- *Does the award form clearly illustrate what was addressed and what was not?*
- *Is the award form complete with respect to the items that were to be appraised?*
- *Was the appraisal handled without prejudice?*
- *Does the award attempt to alter any contractual provisions within the policy?*



# Requirements to be an Appraiser in La?

Must be registered in Louisiana

# Requirements of an Umpire?

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## Closing thoughts...

Will appraisers ever be truly impartial?

Should we change our thoughts on how we manage the process?

Should special training be required for both appraisers and umpires?

I have a suggestion- focus on umpires, not appraisers.



Questions?



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