STORMLEX LAW GROUP

A ROOFING CONTRACTOR'S PLAYBOOK TO ETHICALLY MAXIMIZE INSURANCE CLAIM VALUES FOR CLIENTS



stormlex.com

WHY WE'RE HERE




TROUBLES



TAKE IT WITH YOU

By the way... when you see this icon take a picture of the slide :)



- LEARN WHAT CONTRACTORS CAN AND CANNOT DO OR SAY WHEN MARKETING THEMSELVES
- LEARN WHAT CONTRACTORS CAN AND CANNOT DO OR SAY WHEN DEALING WITH INSURANCE ADJUSTERS OR INSURANCE CLAIMS
- LEARN HOW TO ETHICALLY GUIDE YOUR CLIENTS THROUGH THE INSURANCE CLAIMS PROCESS
- LEARN WHAT YOU CAN DO TO INCREASE THE CHANCES YOUR CLIENTS' INSURANCE CLAIMS GET PAID
- LEARN WHAT TYPES OF CLIENTS/CLAIMS TO AVOID (CLUE: THE POLICY MATTERS)

LEARN

WHO CAN LEGALLY REPRESENT INSUREDS & NEGOTIATE INSURANCE CLAIMS IN TEXAS?

- PUBLIC ADJUSTERS
- LAWYERS





WHAT IS THE UPPA?



THE LAW

The Unauthorized Practice of Public Adjusting (UPPA) refers to the illegal act of unlicensed individuals or companies performing public adjusting services, which include:

- **Settling property insurance claims,**
- **Advocating for insureds,**
- **Negotiating claims, and**
- **Discussing policy language with insurance companies**

Fines: The Texas Department of Insurance can impose administrative fines of up to $10,000 per violation.

Criminal Charges: Acting as an unlicensed public adjuster is a Class B misdemeanor, punishable by up to 180 days in jail and/or a $2,000 fine.

Insurance Fraud: If fraud is involved, charges can escalate to a felony with 2–10 years in prison under Texas Penal Code §35.02.

Civil Liability: Property owners can sue for damages, attorneys' fees, and potentially treble damages under the DTPA.

Reputation and Business Impact: Negative reviews and press can harm your business' reputation. Don't end up on LinkedIn.

THE RISKS

THE DUAL ROLE LAW

In 2019 the Texas Legislature amended Section 4102.163(a)(2) of the Texas Insurance Code to clearly state: "A contractor may not act as a public adjuster or advertise to adjust claims for any property for which the contractor is providing or may provide contracting services, regardless of whether the contractor…is authorized to act on behalf of the insured under a power of attorney or other agreement."

Essentially, it means:

A contractor cannot legally represent an insured in negotiating with an insurance company on a claim for a property they ARE PERFORMING WORK on, even if YOU HAVE A PA LICENSE & the insured gives YOU a power of attorney or other authorization.

MARKETING DO-NOTS

What You Cannot Say

YOU ARE EXPERIENCED IN DEALING WITH INSURANCE ADJUSTERS

YOU WILL WORK WITH THE INSURANCE ADJUSTER TO MAKE SURE EVERYTHING IS COVERED

YOU HAVE LICENSED PA'S ON STAFF: DON'T LIST YOUR TEAM'S PA LICENSES ON MATERIALS (TDI IS CROSS CHECKING CONTRACTORS' NAMES WITH PA LICENSES)

YOU ARE INSURANCE EXPERTS

MARKETING PRACTICES

What You CAN Say

YOU ARE ROOFING EXPERTS

MARKET CLIENT REVIEWS & TESTIMONIALS

LIST YOUR CERTIFICATIONS & MEMBERSHIPS

YOU ARE XACTIMATE EXPERTS

YOU ARE STORM RESTORATION EXPERTS

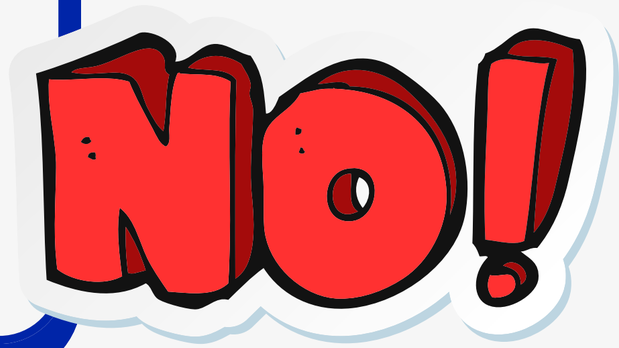
WHAT CONTRACTORS CANNOT DO:

- YOU CANNOT NEGOTIATE OR ADVOCATE ON BEHALF OF AN INSURED
  - DO NOT DISCUSS WHAT THE POLICY MAY OR MAY NOT COVER
  - YOU CANNOT DISCUSS ANY POLICY LANGUAGE INTERPRETATION
- YOU CANNOT INSIST THE INSURANCE ADJUSTER AUTHORIZE ANY PARTICULAR ITEMS OF WORK TO BE INCLUDED IN REPAIRS
- DO NOT ENGAGE IN DISCUSSIONS ON WHY INSURANCE ADJUSTERS HAVE AN OBLIGATION TO PAY FOR OH&P
- DO NOT “AGREE” WITH THE INSURANCE ADJUSTER ON SOME FORM OF MODIFICATION TO YOUR SCOPE AND PRICING



CONTINUED_

- DO NOT USE CONTRACTS THAT CONTAIN ASSIGNMENTS OF BENEFITS OR POLICYHOLDER'S RIGHTS AGAINST THE INSURANCE COMPANY (AOB's)
- YOU CANNOT OFFER TO PAY THE DEDUCTIBLE OR WAIVE IT OR GIVE A DEDUCTIBLE CREDIT
- YOU CANNOT HIRE A PA TO DO YOUR ESTIMATING WORK AND ASK THEM TO NEGOTIATE THE CLAIM ON YOUR BEHALF (A PA HAS TO BE HIRED DIRECTLY BY THE HOMEOWNER)
- **DO NOT USE PROCEEDS CONTRACTS**: ANY LANGUAGE THAT STATES: "THE FINAL PRICE AGREED TO BETWEEN THE INSURANCE COMPANY AND CONTRACTOR SHALL BE THE FINAL CONTRACT PRICE."



THE NEWS

BREAKING NEWS:

ROOFING COMPANY GOES BANKRUPT!!!



A court issued the attached order holding that this type of proceeds contract was “illegal, void, and unenforceable” and that the class members “owe nothing” to contractor. As to damages, the court held:

“The class shall have and recover from [contractor] an amount that equals all amounts paid to [contractor] under and pursuant to [contractor’s] contracts that have been declared illegal, void, and unenforceable by this Order.”

CONSEQUENCES OF PROCEEDS CONTRACTS

WHAT YOU CAN DO

- **DOCUMENT & SHOW AREAS OF DAMAGE**
- **Show the areas of damage and explain why you believe the damage is the result of hail, wind, storm, etc.**
- **CREATE COST OF REPAIR ESTIMATES**
  - **Explain and answer questions regarding the scope of your suggested repairs and why each item of repair is necessary**
- **Identify additional items of work required due to code upgrades**
- **Answer questions regarding how the work was priced**
- **Explain your policy of charging OH&P on all work included in your bid & why**



TO DO'S

AFTER STORM DAMAGE OCCURS

- KEEP THINGS FROM GETTING WORSE
  - HAVE CLIENTS MITIGATE DAMAGES
- GOOD FAITH BELIEF DAMAGES CAUSED BY STORM EVENT?
  - INFORM OWNER TO FILE A CLAIM
- DOCUMENT DAMAGES (PHOTOS/VIDEOS)
  - MATTERPORT, ETC.
- TELL OWNER TO START CREATING A FILE (more later)



DO OR DO NOT.

OWNER HESITANT TO FILE A CLAIM?



COMMON OBJECTIONS:

They want to stay in the good graces of their carrier/agent...

They are worried about rising premiums & getting dropped from coverage.

WHAT HAPPENS WHEN THEY DON'T FILE

THE POLICY:

- **Potential Violation of your Policy if you Wait Too Long**
- **Premiums will continue to rise due to trends, inflation, and # of weather events**

FUTURE CLAIMS:

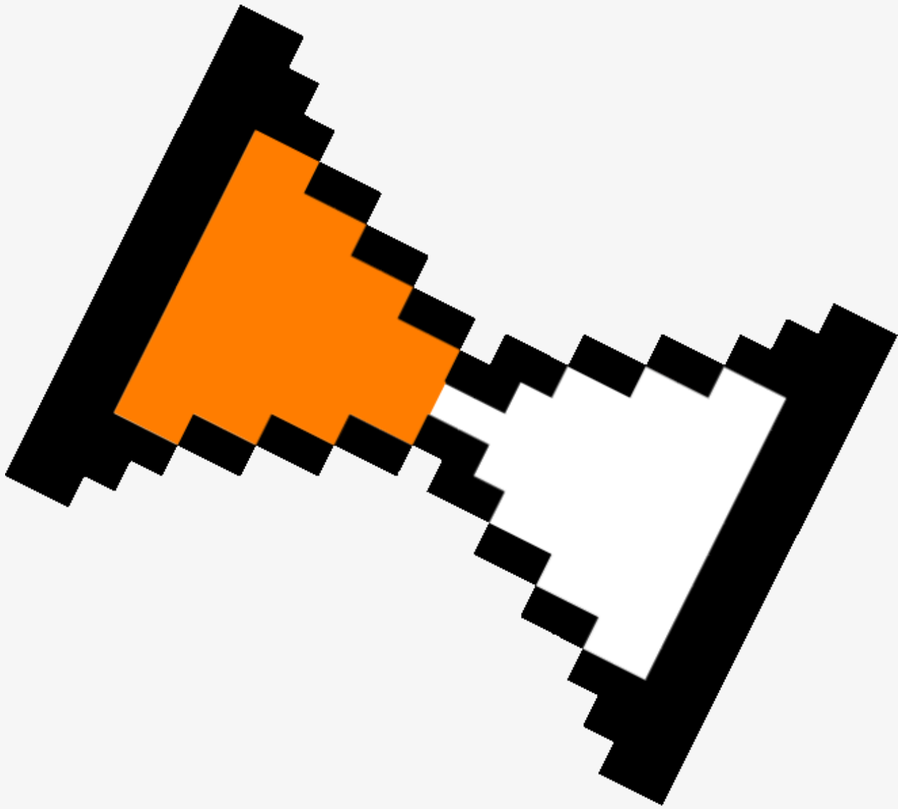
Ignored damages from storms may cause your next claim to be denied due to "Pre-Existing" classification by carrier

THE DAMAGE:

Unaddressed/Hidden damages may cause premature failure of your roofing system



WHEN IS IT TOO LATE TO FILE A CLAIM?



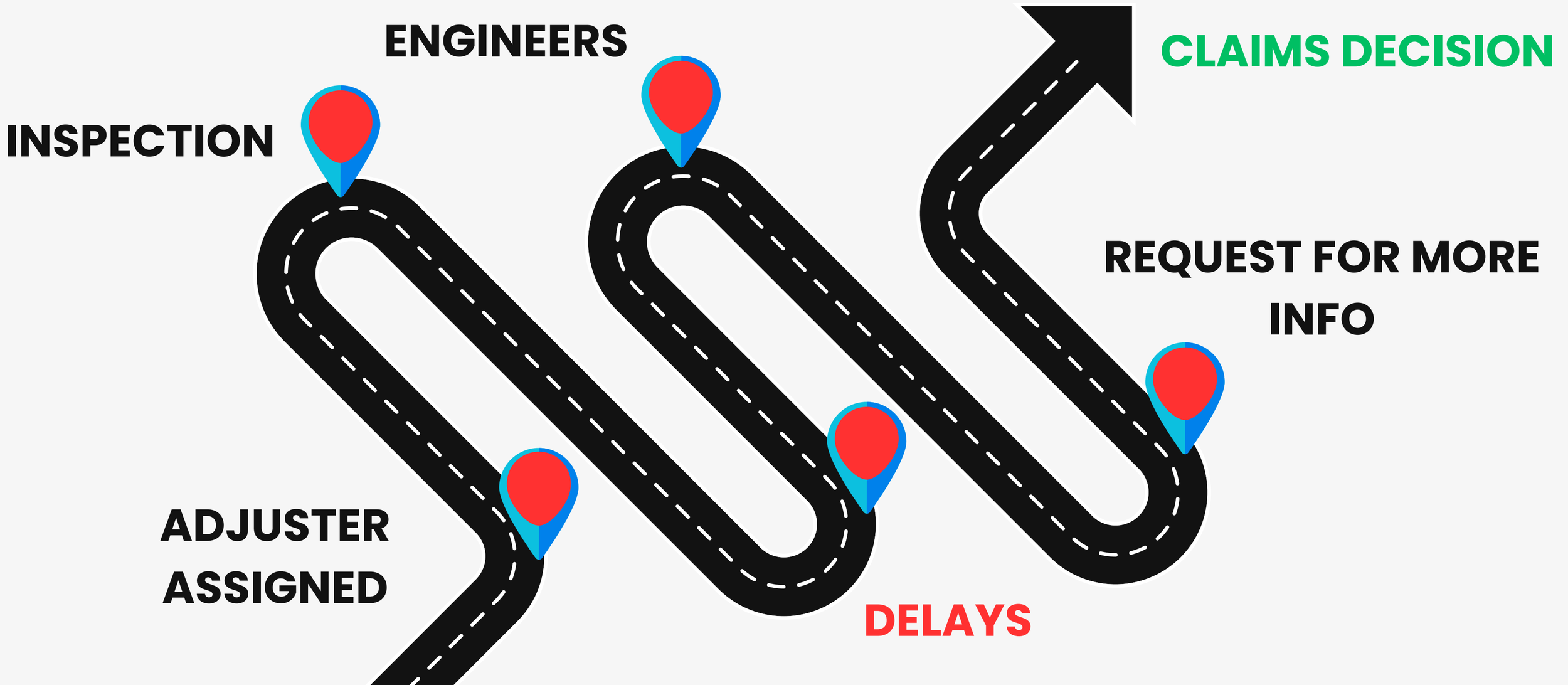
WHEN IS IT TOO LATE TO DISPUTE A CLAIMS DECISION?



CLAIM FILED!

EDUCATE YOUR CLIENTS ON

THE CLAIMS JOURNEY



HOW TO CREATE A FILE

TAKE PHOTOS AND VIDEOS of storm and damages
GET THEM ESTIMATES FOR REPAIRS/REPLACEMENTS

MAKE A LIST OF ALL THE DAMAGED CONTENTS (get invoices, receipts for prices paid for damaged contents/equipment)

KEEP TRACK OF EXPENSES (RECEIPTS) INCURRED to make temporary repairs during the claim process

DOCUMENT ALL COMMUNICATIONS with insurance company (email, journal phone calls, letters, voicemails [establish timeline of communications])




E-MAIL
CLAIMS
DECISION
MADE...

CLAIM DECISION RECEIVED

One of 5 Things Will Happen

PAID IN FULL FOR EVERYTHING MINUS DEDUCTIBLE

DELAYED DECISION (THEY NEED TO CONTINUE INVESTIGATING)

PARTIAL PAYMENT (LIMITED BY POLICY INTERPRETATION & DAMAGE OPINION)

COVERED DAMAGES FOUND, BUT BELOW DEDUCTIBLE (NO PAYMENT MADE)



CLAIM DENIED (NO DAMAGE OR NO COVERAGE-Ex: PRE-EXISTING DAMAGES)



AFTER THE CLAIMS DECISION

OPTIONS

POST DECISION

ACCEPT
Accept the decision and move on

APPRAISAL
Keep in mind, appraisal won't determine coverage—only the value of any damage found; Carrier can refuse to pay appraisal awards based on coverage (trend)

DISPUTE
Request re-inspection by insurance company OR hire an expert (PA or Lawyer) to EVALUATE & dispute the claim

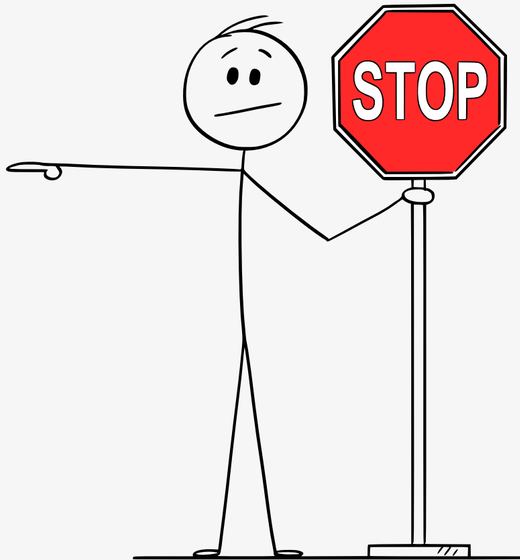


WHY DO INSURANCE COMPANIES DENY OR UNDERPAY CLAIMS?



THINGS THAT REDUCE PAYOUTS OR LEAD TO DENIAL

- HIGHER DEDUCTIBLES
- LATE NOTICE OF FILING
- CLAIM FILED TOO LATE W/O GOOD CAUSE (CLAIM REPORTING DEADLINES IN CERTAIN POLICIES)
- SOME POLICIES AND LAWS REQUIRE INSURED TO SPECIFICALLY IDENTIFY AREAS OF DAMAGES TO ADJUSTERS
- AGGRESSIVE DEPRECIATION TAKEN
- ACV ONLY POLICIES*
- RCV-ACV CONVERSION ENDORSEMENT



CONTINUED



- EXCLUSIONS: EVENTS, COSMETIC WAIVERS, PRE-EXISTING DAMAGES
- WEAR & TEAR, VACANCY, LACK OF MAINTENANCE or CONTRIBUTING CAUSES
- HAIL/WIND: BLAME IT ON ANOTHER STORM (OUTSIDE COVERAGE PERIOD)
- LOW BALL ESTIMATES FOR DAMAGES (PREFERRED CONTRACTOR PROVISIONS)
- REPAIR VS REPLACEMENT ISSUES
- NOT INCLUDING MONEY FOR CODE UPGRADES, OVERHEAD AND PROFIT, OSHA REQUIREMENTS
- TIME PERIOD FOR COSTS OF REPAIRS: IGNORING THE CURRENT/LOCAL PRICING

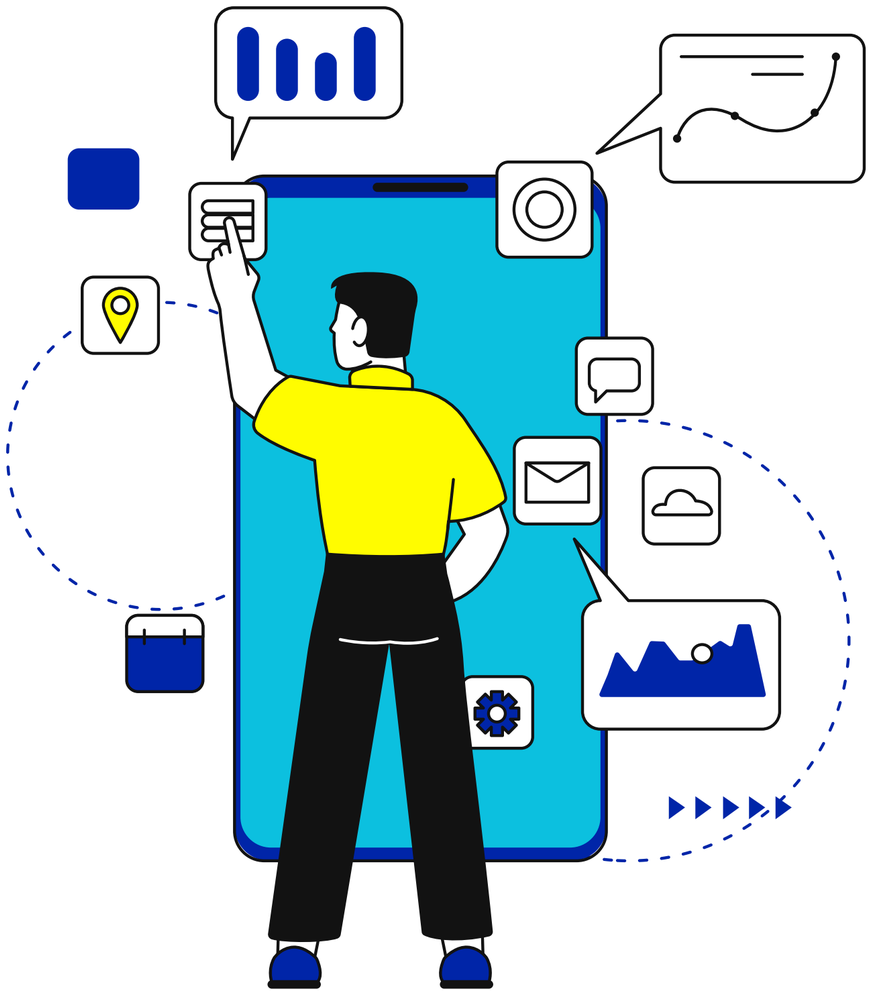


THE BASICS OF PROTECTION

BASIC POLICY PROTECTIONS

- 1-2% Deductible
- ALL RISKS POLICIES (vs Named Risk/Perils)
- RCV ONLY POLICIES
- NO RCV TO ACV CONVERSION ENDORSEMENT
- NO COSMETIC WAIVERS OR ANTI-CONCURRENT CAUSATION PROVISIONS
- NO HARD DEADLINE FOR FILING A CLAIM
- VALUATION OF REPAIRS BASED ON CURRENT/LOCAL PRICING
- MAKE SURE YOU ARE NOT UNDERINSURED
- BONUS: Consider buy down deductible policies

THERE'S AN APP FOR THAT



DOCUMENT THE DAMAGE

APPS THAT CAN STREAMLINE THE PHOTO/VIDEO PROCESS AND HELP KEEP FILES ORGANIZED FOR CONTRACTORS

COMPANYCAM

Features: Photo and video documentation, automatic time-stamping, location tagging, and cloud storage.

Why It's Useful: Easily share job progress and documentation with insurance adjusters, clients, and internal teams.

ENCIRCLE

Features: Full property documentation, inventory tracking, photo and video capture, and customizable inspection reports.

Why It's Useful: Supports detailed loss documentation, including moisture mapping, and allows for easy submission to insurers.

DOCUMENT THE DAMAGE

JOBNIMBUS

Features: Photo and video uploads, file storage, project management, and task tracking.

Why It’s Useful: Keeps all project files in one place and connects them to job timelines and milestones.

MATTERREPORT

Features: 3D virtual tours, 360-degree scans, and spatial measurement tools.

Why It’s Useful: Provides 3D models of damaged properties, allowing adjusters to see the property remotely.

XACTIMATE MOBILE

Features: Mobile estimating, sketching, and photo attachment for claims.

Why It’s Useful: Syncs directly with Xactimate’s estimating software, making it easier to include photo evidence in reports.

STORING THE DOCUMENTATION

GOOGLE DRIVE

Features: File storage and sharing for large photo and video files.

Why It's Useful: While not a dedicated claim documentation app, it's a simple solution to organize and share large files with insurance adjusters or legal teams.

DROPBOX

Features: File storage and sharing for large photo and video files.

Why It's Useful: Simple solution to organize and share large files with insurance adjusters or legal teams.

THESE APPS HELP YOU STAY ORGANIZED, COLLECT COMPREHENSIVE EVIDENCE, AND PRESENT STRONGER EVIDENCE OF DAMAGE TO INSURANCE

STORING THE DOCUMENTATION

ONEDRIVE (MICROSOFT)

Features: Similar to Google Drive and Dropbox but integrates directly with Microsoft Office products.

Why It's Useful: Useful for contractors already using Microsoft tools.

DOCUSKETCH

Features: 360-degree photo documentation with virtual walkthroughs and 2D floor plans.

Why It's Useful: Allows insurance adjusters to walk through a virtual representation of the damaged property.

ROOFSNAP

Features: Roof measurement, photo documentation, and estimating software.

Why It's Useful: Ideal for storm restoration contractors working with roof repairs.

OWNER ALREADY GOT PAID SOME MONEY

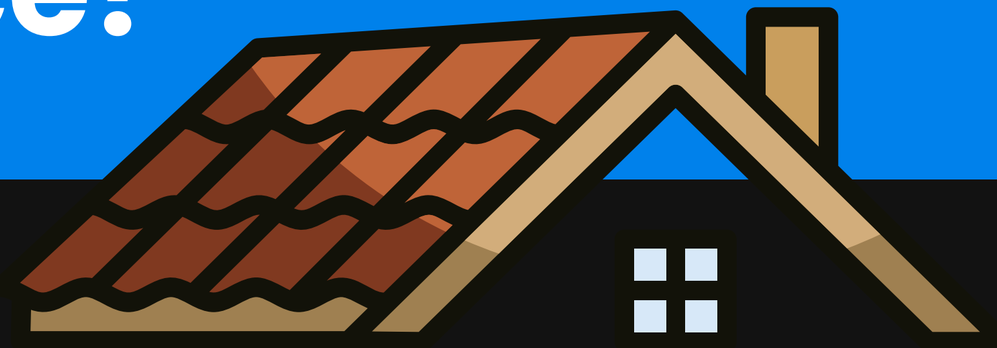


Prize Slide

VALUE

RCV vs ACV

What's the difference?



Prize Slide

CLAIMS TIPS

FOR PROPERTY OWNERS

- **Contact Insurance Agent: File claim as promptly as possible**
- **Take photos/videos of damage (keep file)**
- **Make temporary repairs; keep things from getting worse**
- **Set up inspection by insurance adjuster & COOPERATE with carrier**
- **Property Damage: Provide a defensible bid for repairs/mitigation**



CLAIMS TIPS

FOR PROPERTY OWNERS

- **Contents Lost: Make an inventory (ahead of time)**
- **If relocation necessary, keep all receipts for ALE**
- **Communicate: They should keep sending emails to make sure the carrier has everything they need to make a decision**
- **If 15 days have passed without communication and no claims decision or request for extension was made (and they have all information they need), this is likely an insurance code violation.**
- **GET A CLAIM EXPERT INVOLVED WHEN NECESSARY.**



OUTCOME

- ARM YOU WITH INFORMATION TO EMPOWER YOURSELVES & YOUR CLIENTS
- TEACH OTHERS HOW TO CREATE A FILE FOR INSURANCE PURPOSES
- MAKE IT EASIER FOR INSURANCE COMPANIES TO MAXIMIZE PAYOUTS ON CLAIMS
- KNOW THE TYPES OF POLICIES THAT WILL MAKE IT EASIER FOR YOU AND YOUR CLIENTS' CLAIMS TO BE PAID
- PREVENT THE UNNECESSARY LOSS OF CONTRACTING WORK & INCREASE YOUR REVENUE BY ETHICALLY GUIDING YOUR CLIENTS THROUGH THE INSURANCE CLAIMS PROCESS

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