



FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)

APPEAL DECISION

FEMA Flood Insurance Appeal Decision #C18

OVERVIEW

The policyholders filed an appeal on December 2019, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied part of their claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a flood event dated September 2019.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholders had \$250,000 in building coverage and \$100,000 in personal property coverage.
- This dwelling is post-FIRM (Flood Insurance Rate Map).
- The insurer rated the building as a non-elevated building with three or more floors located in a special flood hazard area, zone AE.³
- The policyholders notified the insurer of the loss and the insurer sent an adjuster to inspect the property.
- The adjuster inspected the loss on September 2019, and recorded an exterior waterline of 22 inches and an interior waterline of 12 inches.
- The insurer retained an engineer to determine if the building foundation, support elements, or framing members were structurally damaged by direct exposure to floodwater forces.
- The engineer determined the building and foundation were not structurally damaged by the reported flood event.
- During inspection, the engineer determined the building was elevated with a finished enclosure.
- The insurer corrected the dwelling’s elevation status.
- Based on the corrected elevation status, the adjuster estimated for cleaning, drying, and a water heater.
- In a letter dated October 2019, the insurer denied coverage for items located below the lowest elevated floor citing post-FIRM elevated building coverage limitations.
- In a letter dated November 2019, the insurer stated the policyholders failed to execute their proof of loss and the insurer closed the claim as inactive.

¹ See 44 C.F.R. § 61.13 (2018); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

² The policyholders file this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholders’ claim. The policyholders’ appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

³ For more information about flood zones, please see <https://www.fema.gov/glossary/flood-zones>.

- The policyholders appeal the insurer's denial. The policyholders believe their home is a split level, non-elevated building partially built on a load-bearing concrete slab on grade. The policyholders believe post-FIRM elevated coverage limitations should not apply to the affected rooms.
- The policyholders do not include substantive information with their appeal; therefore, FEMA's decision is based on the documentation in the claim file.

RULES

The insurer agrees to pay the policyholders for the direct physical loss by or from flood to insured property, provided the policyholders complied with all terms and conditions of the SFIP and have furnished accurate information and statements. The insurer has the right to review the information provided at any time and to revise the policy based on their review.⁴

The SFIP defines an elevated building as a building with no basement and has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns.⁵

ANALYSIS

On appeal, the policyholders believe their home is a split-level, non-elevated building, partially built on a load-bearing concrete slab on grade. The policyholder argues that this type of building and foundation is not subject to the SFIP coverage limitations.

The insurer agrees to pay the policyholders for the direct physical loss by or from flood to insured property. The insurer has the right to review the information provided at any time and to revise the policy based on their review. Here, an engineer found that the main elevated building in the front, including the master bedroom and bathroom, and the upper level of the rear building area, including the office space over the apartment, were supported by a piling foundation system with beams at the top of the pilings. The entire lowest elevated floor is supported by pilings and not the poured concrete flooring. The furring and decking build-up is a sleeper system that does not qualify as the lowest elevated floor.⁶ Therefore, the policyholders' dwelling meets the definition of a post-FIRM elevated building. The insurer revised the policyholders' policy based on this information. For these reasons, FEMA's review finds adjuster properly estimated the claim and the insurer correctly limited coverage to the items listed in the SFIP.

The SFIP defines an elevated building as a building with no basement and has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Here, the engineer's report notes the dwelling has the lowest elevated floor raised above ground level by pilings and is an elevated building as defined by the SFIP. The engineer's report includes necessary disclosures, a discussion supported by 12 color photographs, and leads to a clear conclusion. The report is signed by a

⁴ See SFIP (I).

⁵ See SFIP (II)(B)(14).

⁶ See National Flood Insurance Program Claims Manual.

licensed Professional Engineer in good standing with the state of South Carolina.⁷ FEMA's review agrees with the insurer's determination that the building is elevated. Because the building is post-FIRM and located within special flood hazard area, zone AE, the insured building and personal property are subject to coverage limitations. For these reasons, FEMA's review finds the insurer properly denied coverage.

CONCLUSION

Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage for items subject to post-FIRM elevated building coverage restrictions.

⁷ See South Carolina Department of Labor, Licensing & Regulation, Engineers and Land Surveyors, *available at* <https://verify.llronline.com/LicLookup/Engineers/Engineer.aspx?div=50>.