



**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**  
**FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)**  
**APPEAL DECISION**

*FEMA Flood Insurance Appeal Decision #C28*

## **OVERVIEW**

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The policyholders filed an appeal on June 2019, alleging that the flood insurance carrier (hereinafter “insurer”) improperly denied part of their claim under the Standard Flood Insurance Policy (SFIP)<sup>1</sup> for damages to covered property arising on March 2019.<sup>2</sup>

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholders had \$250,000 of building coverage and \$46,000 in personal property coverage.
- The policyholders reported the flood loss to the insurer and the insurer assigned an adjuster to inspect the property.
- On March 2019, the adjuster inspected the property and confirmed that a general and temporary condition of flooding existed. The adjuster measured waterlines of 40 inches on the exterior of the building and 13 inches on the interior of the building of the building. Water remained at the property for seven days.
- During the inspection, the adjuster noticed damage to the block walls in the crawlspace that supports the building. The insurer retained a state licensed engineer to determine if the insured property sustained any structural damage as a result of the flood event.
- The engineer inspected the property on April 2019, and concluded that the insured property did not sustain any damage to the foundation system a result of the flood event. The engineer determined that the property had pre-existing ongoing differential settlement.
- The adjuster prepared an estimate that included allowances for cleanup, mildewcide treatment of the concrete floor, cleaning block walls and drying out of the garage and crawlspace, pressure washing the exterior walls and steps, replacing the electrical outlet, and cleaning of the air conditioning unit. The adjuster forwarded the estimate to the insurer for their review.
- After reviewing the adjuster’s estimate, the insurer issued the policyholders a payment totaling \$19,156.72 for building damages and \$1115.93 for personal property damage.
- In a letter dated May 2019, the insurer denied coverage for damages to the foundation. The insurer’s letter cites the engineer’s finding that the house was not damaged by hydrodynamic,

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

<sup>2</sup> 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”].

hydrostatic, or buoyant or frictional forces from flood waters. The letter writes that the SFIP specifically excludes this type of damage.

- The policyholders forwarded one-page statements from two contractors advising that the foundation sustained damage as a result of the flood event.
- The insurer retained the services of a second state licensed engineer to determine if any structural damage was sustained to the insured property as a result of the flood event. The insurer forwarded the report from the first engineer and the statements from the policyholders' contractors to the second engineer for review.
- The second engineer concluded that the flood event did not damage the foundation system.
- The policyholders appeal the insurer's decision to deny coverage for the foundation. The policyholders contend that the damage to the foundation system was caused by the flood event.
- The policyholders did not submit any substantive documentation in support of their appeal. Because the policyholders did not submit any documentation for consideration, FEMA's decision is based on the documentation in the claim file.

## RULES

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The insurer agrees to pay the policyholders for direct physical loss by or from flood to covered property, provided the policyholders comply with all terms and conditions of the SFIP.<sup>3</sup>

The SFIP excludes earth movement, even if directly caused by flood; examples include land subsidence, sinkholes, destabilization or movement of land due to water accumulation, and gradual erosion.<sup>4</sup>

## ANALYSIS

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On appeal, the policyholders disagree with the insurer's decision to deny coverage for foundation damage.

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Here, the insurer retained a state licensed engineer to inspect the property. The engineer determined that the insured property did not sustain structural damage resulting from the flood event. The engineer concluded that structural damage was attributed to the differential movement of supporting soil, which is a type of earth movement. Damage due to earth movement is not covered by the SFIP.

As soil becomes saturated with water, it loses structural integrity and bearing capacity. When the loads from building structures cause stress on the saturated soil, it results in movement of the soil and the settlement of the foundation. The settlement is damage due to the building's reaction to movement

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<sup>3</sup> See SFIP (II)(B)(12).

<sup>4</sup> See SFIP (V)(C).

occurring in the ground. However, the settlement is not a cause of loss and is not covered under the policy.

To better understand this flood policy exclusion, consider when a flood event inundates a building causing flood damage and a fire. The damage caused directly by the flood is covered under the SFIP, but the damage caused directly by fire and smoke is not, even though the flood directly caused the fire. Here, the flood directly damaged part of the building, but also caused the soil to weaken and move. The damage directly caused by the flood is covered under the SFIP, but the damage to the building caused directly by the soil weakening and moving is not covered.

The engineer also noted the erosion and scouring of soil beneath and around foundation piles supporting the rear of the building was a long-term ongoing issue, and was not caused by a recent, one-time event.

After receiving the denial, the policyholders submitted one-page statements from two contractors advising that the foundation sustained damage due to the flood event. The insurer retained a second engineer to review the information from the contractors and the first engineer. The second engineer concluded that the foundation system did not sustain damage due to the flood event. Both engineers agreed that the observed scouring and erosion was caused by a long-term ongoing issue.

FEMA's review finds that the engineers' reports meet the standard for reports of their type—forensic damage evaluations. The reports are signed by state licensed engineers in good standing with the state. The insurer correctly relied upon the expertise and findings of the engineers when denying the policyholders' claim. Damage caused by earth movement is not covered by the SFIP even when flooding is the cause of the movement.

Based on the information in the claim file and appeal, FEMA's review finds the insurer properly applied the SFIP when denying the coverage for foundation damage.

## **CONCLUSION**

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Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage for the foundation.