

# **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

## **FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)**

### **APPEAL DECISION**

*FEMA Flood Insurance Appeal Decision #C9*

## **OVERVIEW**

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The policyholder filed an appeal on September 2020, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied their claim under the Standard Flood Insurance Policy (SFIP)<sup>1</sup> for damages to covered property arising from a claimed loss event dated May 2019.<sup>2</sup>

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$500,000 in building coverage and \$500,000 in personal property coverage.
- The policyholder reported the loss on June 2019, nearly a month after the claimed date of loss.
- The insurer assigned an adjuster to inspect the property.
- The adjuster inspected the property on June 2019, and did not find waterlines on the interior or exterior of the property. The adjuster canvassed the neighboring buildings on both sides of the insured property and documented that neither building reported any flooding. Based on his inspection, the adjuster could not confirm a general and temporary condition of flooding existed at the property.
- The policyholder provided video footage from their security cameras and an affidavit from a neighbor to support the claim of a general condition of flood. The insurer reviewed the information from the adjuster and policyholder and concluded there was insufficient evidence to confirm a general and temporary condition of flood existed.
- In a letter dated July 2020, the insurer denied the claim on the basis that there was no general condition of flooding to the insured building on the reported date of loss.
- The policyholder appeals the insurer’s denial. With their appeal, the policyholder includes photographs, a flood field survey, and an estimate.

## **RULES**

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A flood is defined as a temporary inundation of two or more acres of dry land or two or more adjoining properties, one of which is the policyholder’s property, by inland or tidal overflow; rapid accumulation of rainfall or snowmelt; or mudflow.<sup>3</sup>

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<sup>1</sup> See 44 C.F.R. § 61.13 (2018); General Property Form available at 44 C.F.R. pt. 61 App. A(2) [hereinafter “SFIP”].

<sup>2</sup> The policyholder files 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 policyholder’s claim. The policyholder’s 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”].

<sup>3</sup> See SFIP (II)(A)(1).

## ANALYSIS

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The policyholder appeals the denial of coverage based on the determination no general and temporary condition of flood existed. The policyholder writes that based on the video footage, neighbor affidavit, and flooding in the area, their claim should be re-evaluated.

A flood is defined as a temporary inundation of two or more acres of dry land or two or more adjoining properties, one of which is the policyholder's property, by inland or tidal overflow; rapid accumulation of rainfall or snowmelt; or mudflow. In order to qualify for coverage, the SFIP requires a general and temporary condition of flooding exist at the described location on the reported date of loss.

The insurer did not receive the notice of loss until June 2019, approximately 29 days after the reported date of loss. While the policyholder states they notified their insurance agent immediately after the loss, it is unclear why the agent delayed in notifying the insurer. By not reporting the claim promptly as required under the policy, the policyholder deprived the insurer the opportunity to conduct a timely inspection to determine the cause and extent of damage. As the period of time increases between a flood event and notification to the insurer, inspecting the loss becomes increasingly difficult.

As a result, the adjuster did not locate any watermarks to indicate floodwaters had entered the insured property. Additionally, because some repairs had been made or were underway at the time, the adjuster did not identify any damages to insured property. The insurer reviewed security footage and an affidavit from a neighbor and determined that there was insufficient evidence to show that a flood, as defined by the SFIP, occurred.

FEMA's review of the information in the claim file and appeal finds there is sufficient evidence that a general and temporary condition of flood existed. The video footage shows that floodwaters were present on both the interior of the building, as well as the exterior near the front door. The sidewalk and street also appear to be underwater. The definition of flood in the SFIP allows one of the required two or more properties to be public property (such as a roadway).<sup>4</sup>

Based on this review, FEMA overturns the insurer's decision to deny the claim for no condition of flooding. FEMA directs the insurer to re-open the claim and re-evaluate the damages caused by flood. The policyholder should cooperate with the insurer and provide them with the information they need to resolve the claim. Any adjustment of the claim remains under the direction of the insurer in accordance with all terms and conditions of the SFIP.

## CONCLUSION

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Based on the facts and analysis above, FEMA overturns the insurer's decision to deny the claim, as the evidence provided shows there was a general and temporary condition of flood at the described location on the reported date of loss.

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<sup>4</sup> See National Flood Insurance Program Claims Manual, Section II-Definitions (Jun. 1, 2019).