



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

## **RESILIENCE**

### **APPEAL DECISION**

*FEMA Flood Insurance Appeal Decision #D14*

## **SUMMARY**

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The policyholder's representative (hereinafter "policyholder") appeals the flood insurance carrier's (hereinafter "insurer") denial of a claim under the Standard Flood Insurance Policy (SFIP)<sup>1</sup> for damages to their property arising in September 2022.

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.<sup>2</sup>

After reviewing the issues, evidence, and relevant authorities, FEMA affirms the insurer's decision.

## **BACKGROUND**

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### **COVERAGE**

The policyholder insures property under the SFIP Dwelling Form. At the time of loss, the policyholder had \$250,000 of building coverage and \$100,000 of personal property coverage.

### **EVENT AND CLAIM FACTS**

Hurricane Ian produced torrential rain, storm surge, and widespread flooding in Florida.<sup>3</sup>

Following the flood event, the policyholder filed a claim for damages with the insurer, and the insurer assigned an adjuster to inspect the property. The policyholder's property is a one-story, single-family building with a slab-on-grade foundation.

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<sup>1</sup> See 44 C.F.R. § 61.13 (2021); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter "SFIP"].

<sup>2</sup> The policyholder's appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Resilience, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter "Appeal File"].

<sup>3</sup> See FEMA Bulletin W-22015 (Oct. 14, 2022) (setting Sept. 26, 2022 – Oct. 12, 2022 as event dates of loss).

In October 2022, the adjuster inspected the property and confirmed a general and temporary condition of flood existed. The adjuster documented a seven-inch waterline on the exterior of the building and a half-inch waterline in the interior of the building. The adjuster prepared an estimate for covered building damages, providing allowances that included, but were not limited to, flood loss cleanup, structural drying, regrouting tile floor, electrical, carpeting, trim, walls, and cabinetry.

In October 2022, the insurer issued the policyholder payment totaling \$37,500 for covered building damages.

In January 2023, the insurer issued the policyholder an additional payment totaling \$118,588.42 for covered building damages.

In a letter dated April 2023, the insurer denied coverage for the replacement of vanities, tile flooring, upper cabinetry, granite countertops, and electrical upgrades due to no direct physical loss by or from flood.

The policyholder appeals the insurer's denial. The policyholder disagrees with the insurer's denial of coverage for the replacement of bathroom vanities, tile flooring, and electrical costs and requests an additional payment totaling \$38,499.24. In support of their appeal, the policyholder submits a cost breakdown, two invoices, an estimate, and e-mail correspondence.

## ISSUES

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The policyholder appeals the insurer's denial of coverage for vanity replacement, tile flooring replacement, and electrical upgrades.

## RULES

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Under Coverage A – Building Property, the SFIP insures against direct physical loss by or from flood.<sup>4</sup>

In case of loss or request for additional payment, the SFIP requires the policyholder to provide a signed and sworn-to proof of loss with the documentation that supports the loss and dollar amount requested.<sup>5</sup>

## ANALYSIS

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The policyholder appeals the insurer's denial of coverage for vanity replacement, tile flooring replacement, and electrical upgrades.

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<sup>4</sup> See SFIP (III)(A).

<sup>5</sup> See SFIP (VII)(G)(3)-(5).

**Bathroom Vanities.** The policyholder requests an additional payment to replace the bathroom vanities. Under Coverage A – Building Property, the SFIP insures against direct physical loss by or from flood.<sup>6</sup> The adjuster determined the vanities did not show evidence that they were ruined by floodwater. The adjuster included allowances to stain, finish, detach, and reset the vanities. FEMA’s review finds the adjuster’s photographs do not show flood-related damage to the bathroom vanities. Without evidence showing direct physical loss by or from flood to the vanities, FEMA’s review finds the insurer properly denied the policyholder’s request for additional payment to replace the vanities. In case of loss or request for additional payment, the SFIP requires the policyholder to provide a signed and sworn-to proof of loss with the documentation that supports the loss and dollar amount requested. The policyholder did not present any evidence with their appeal to suggest the vanities were non-salvageable after the flood and needed to be replaced. In addition, the policyholder’s invoices and estimates are not itemized. The National Flood Insurance Program (NFIP) does not accept non-itemized, lump sum, or single line estimate or invoices in support of a claim.<sup>7</sup>

**Ceramic Tiles.** The policyholder contends the ceramic tiles were directly damaged by flood. With their appeal, the policyholder submits an invoice for tile flooring removal. In the invoice, a contractor states the tiles are loose in multiple areas due to hydrostatic water pressure. FEMA’s review finds the contractor’s statement does not include a detailed analysis or any technical or scientific data that shows hydrostatic water pressure caused the tiles to loosen. The adjuster’s photographs do not show any physical damage to the tile flooring. Additionally, the adjuster included allowances to clean and restore the tile flooring.

According to industry standards, ceramic tiles installed in a thin-set mortar over top of a concrete slab with cementitious grout, creates a flood-damage resistant floor assembly. This classification is based on material testing industry standards.<sup>8</sup> As harsh as floodwater can be, it will not cause the adhesive properties within thin-set mortar or cementitious grout to “de-bond” from a concrete slab floor or from individual floor tiles. Debonding of these components can occur if certain factors unrelated to floodwater inundation exist. Debonding can occur from the lack of expansion joints in tile floors around woodwork or within floor areas exposed to higher level of humidity, sunlight, or heat. When affected by these natural conditions, wood and ceramic tile can expand. This expansion creates separation of the tile from the thin-set mortar or crack in the tile or the grout. Other factors that contribute to de-bonding are excess moisture in the concrete slab, an unclean concrete surface at the time of installation, a poor mortar or grout mixture, or the application of semi-dried thin-set mortar. When concrete moves from natural shrinkage or from the long-term effects from settlement, further separation and cracking can develop.

All these factors and conditions contribute to the loosening of tiles, separation, or cracking, and the hollow sound which is present when the tile surface is tapped with a blunt object or walked upon. When floodwater enters in the pre-existing spaces created from de-bonding, the separation and looseness of the tiles becomes more pronounced. The floodwater exacerbates a pre-existing condition of damage in the floor assembly that is not the result of direct physical loss by or from flood. If the surface of ceramic tiles were damaged by sediment that caused abrasions from wave action or velocity flood of flood water, or if a wood product, other than structural wood framing, is a material component within the ceramic tile floor assembly, consideration for replacement would be justified. Other considerations could be based upon

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<sup>6</sup> See SFIP (I), (II)(C)(14).

<sup>7</sup> See NFIP Claims Manual, Section 1: SFIP Forms – Dwelling Form, Pg. 70, (Oct. 1, 2021).

<sup>8</sup> See FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements (Aug. 2008), *available at* [https://www.fema.gov/sites/default/files/2020-07/fema\\_tb\\_2\\_flood\\_damage-resistant\\_materials\\_requirements.pdf](https://www.fema.gov/sites/default/files/2020-07/fema_tb_2_flood_damage-resistant_materials_requirements.pdf).

written justification from a local community official or qualified expert regarding a pollutant or other type of contamination within the floodwater.

For these reasons, FEMA's review finds the insurer properly denied coverage for the ceramic tile flooring, as there is no evidence the damage being claimed to the tile flooring is the result of a direct physical loss by or from flood.

**Electrical.** The policyholder contends \$2,200 of the electrical invoice was to repair and replace damaged existing electrical outlets, and that the amount estimated by the adjuster is insufficient. FEMA's review finds this e-mail statement is not sufficient evidence to prove the costs incurred for the flood-damaged electrical outlets exceeded the amount provided by the insurer. As mentioned previously, the SFIP insures for direct physical loss by or from flood, and the NFIP does not accept non-itemized, lump sum, or single line estimate or invoices in support of a claim. Due to there being less than one inch of water in the policyholder's building, the adjuster's estimate only included electrical allowances to replace two floor mounted electrical outlets, and to detach and reset the outlet on the island cabinet in the kitchen. These electrical allowances totaled \$747.44. If the policyholder is claiming electrical damages that were omitted from the adjuster's estimate, they need to document the item's location within the building, the extent of the loss, and document the approximate cost to repair or replace the item.

If the policyholder believes the electrical allowances are undervalued, the policyholder must document the remaining loss (if any) and all repairs. For repaired damages, the policyholder should provide all documentation related to the repairs, including copies of the contractor estimate with corresponding proof of repair (e.g., credit card invoices, cancelled checks, debit entry on bank account registry for cash payments), contractor repair receipts, new material purchase invoices, or other evidence that the policyholder has obligated or expended payment, plus photographs of all repaired damages. Documentation related to flood-damage tear out, flood cleanup, treatment, and building dry-out should also be provided. For unrepaired damages, the policyholder should provide copies of the contractor and policyholder-signed repair agreement with the corresponding estimate to repair, material purchase orders, and the like, plus photographs of all non-repaired damage. An unsigned estimate or proposal is not sufficient as a basis for a request for additional payment.<sup>9</sup>

With this documentation the policyholder should attach a signed and sworn-to proof of loss form and submit it directly to the insurer for review. For a request for additional payment related to pricing only, provided there is no item of omission or quality, the insurer may issue additional payment provided the documented loss and repair exceeds the sum of all building claim payments (i.e., the full cost to repair), plus the deductible and any withheld depreciation. A request for additional payment based on increases in unit pricing without proper documentation or justification is not substantiated.

For these reasons, FEMA's review finds the insurer properly denied coverage for the bathroom vanities, ceramic tile floors, and additional electrical costs.

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<sup>9</sup> See NFIP Claims Manual, Section 2: Claims Processes and Guidance, pgs. 285-287 (Oct. 1, 2021).

## CONCLUSION

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Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage for the bathroom vanities, tile floors, and additional electrical costs.