

September 18, 2013

Touro Law Center's Disaster Relief Clinic has created an Insurance Checklist for homeowners affected by Sandy. Please review it carefully. We have been sending it to Sandy victims who have called our clinic hotline. You might have already received it, but we are sending it again with this important **updated cover letter addressing additional questions** by Sandy victims.

PROOF OF LOSS DEADLINE – We advise that proof of loss be received by the insurer by October 26, 2013. Please review our checklist for more information. Additionally:

- You need to comply with the proof of loss requirement by FEMA's deadline, even if you have worked with a contractor, building consultant, engineer, public adjuster, or other expert, and **even if you received their name from our hotline or clinic**. For example, even if you have a public adjuster, ensure that all proof of loss forms listed in our checklist are completed in full with specific dollar amounts (not "to be determined") stating the full value of your total claim (both disputed and undisputed insurance funds), are signed and notarized, have supporting documentation, and are sent on time.

You must comply on time if you have not received all the insurance money that you feel you are owed, even if your claim, "supplement," or other paperwork is pending with your insurer, and even if you have been told that you will receive more money. If you do not comply with this proof of loss requirement on time, **your insurer may close your file, even if you have a claim, supplement, or other documents pending, and you will lose your ability to sue.**

SUPPORTING DOCUMENTATION – Please review our checklist for information about "supporting documentation" that needs to accompany your proof of loss. Additionally:

- **Review all documents** that a contractor, building consultant, public adjuster, engineer, or other expert along these lines makes for you. We highlight three issues:
- First, **provide documents to show the full value of your claim**. For example, if a building consultant makes a supplement or report that states your total loss or cost to rebuild is \$100,000, and you believe that figure is really \$150,000, specify that higher amount on the proof of loss forms listed on our checklist, and attach additional supporting documentation to show why your claim is \$150,000.
- Second, some experts state what they believe is the total claim for the structure – that is, what the insurance adjuster or insurer has allowed for, combined with additional money the expert believes you are owed. Other experts state only the additional money he or she believes you are owed. **Do not mistake an expert's determination of your total claim as necessarily meaning that you should receive that amount *in addition to what the insurer or insurance adjuster allows***. For example, if your insurer paid \$25,000, and your building consultant makes a supplement or report stating that your total claim is \$100,000, this alone supports you getting an extra \$75,000, not an extra \$100,000.

- Third, be mindful that many experts will leave it up to you **to separately document your personal property losses**, or “contents.” Be sure to include as supporting documentation your contents lists with backup as referenced in the checklist.
- We **further advise** submitting the following for supporting documentation: (1) the line-itemizations by insurance adjusters, including all pictures taken by the adjusters where available; (2) any receipts that you have for any repairs or replacement; and (3) all of the additional supporting documentation referenced in our checklist.

Time is of the essence. While Touro Law Center is not affiliated with experts such as building consultants, we have met with some who have helped Long Island Sandy victims. They may be able to provide some of the supporting documentation, such as the line-itemizations we advise. As the recovery of this disaster has evolved, we have continued to identify new experts of this nature that we may not have provided beforehand. Please feel free to contact our hotline to discuss potential building consultants or engineers. Our hotline is available at (631) 761-7198.

STATUTE OF LIMITATIONS – The statute of limitations is the **second critical deadline** that needs to be met in order to file suit. Please review the checklist for more information, however to ensure that you meet this deadline we advise that you file suit within one year of the date of your first insurance check, your first letter from your insurer notifying you of any payment, or your first denial letter – whichever is the earliest.

FEMA APPEALS – The flood policy allows the option for you to appeal to FEMA’s Federal Insurance Administrator before filing suit, within 60 days of the “written denial, in whole or in part” of the claim. Even if you file a FEMA appeal, the proof of loss and statute of limitations deadlines remain in force in order to file suit. A FEMA appeal does not extend these deadlines. Contact our hotline if you would like more information on how to appeal.

CHECKLIST – Please **review our checklist** for additional important details on these issues, other information from the issues we have seen, including about elevation and flood insurance premiums, and deadlines in New York homeowner (non-flood) insurance policies.

NEXT STEPS – We understand that this is complicated, and we are coming to believe that some homeowners will need to file suit with an experienced insurance attorney because of the current deadlines and resistance that they are facing. At this time, our hotline and clinic unfortunately are not able to complete proof of loss or file suit. However, we and other legal services providers are collaborating with the private bar to explore if we can provide more guidance to victims who do not have an insurance attorney.

We anticipate that there will be more information to come on these issues given their complexity and the problems that homeowners are facing. We are also hopeful for additional FEMA guidance, including on the “Increased Cost of Compliance” form listed in the checklist.

Please regularly check www.tourolaw.edu/tlcheart for updates and call our hotline at (631) 761-7198 with any questions or for more information.

PUBLIC WORKSHOP

Touro Law Center, 225 Eastview Drive, Central Islip, NY 11722
will host a **workshop for Sandy victims with flood insurance claims on
Monday, September 23, from 7:00 pm to 9:00 pm.**

The panel will include private bar insurance attorneys and
building consultants helping Sandy victims in Long Island.

Please attend if you can, and
RSVP if possible at cindyzeis3.eventbrite.com.