

Working With a Licensed Public Adjuster on Your Association's Insurance Claim

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Whenever I am asked what I do for a living, my response of, "I am a Licensed Public Insurance Adjuster; I secure fair claims settlements for commercial policyholders from their insurance companies", generally results in the same response. 99% of the inquirers have no idea such a person exists. Almost always though, people can establish a personal connection with my profession, either as a result of their own claims experience, or from hearing about the nightmare experience of a friend who has spread the word.

Licensed Public Insurance Adjusters (PA's) are one of few highly skilled professionals whose existence is largely unknown to the majority of insurance policy holders. The Rocky Mountain Chapter of Community Association asked me to shed some light on the role we play in an insurance claim, as well as how associations and their managers can use us to arrive at the true and fair amounts owed to an insured in the event of a loss.

Most association managers have experienced an insurance claim filed by their clients. No doubt, these have translated to additional responsibilities to these managers in an attempt to settle these claims, which I presume resulted in varying degrees of success and stress.

When a claim for damages is brought against a policy, the insurance company will designate a claims adjuster to assess its obligation to cover the claim or loss. There is one constant fact you can expect from every insurance adjuster whether he is a staff adjuster, an independent adjuster, highly experienced, inexperienced, very nice, very rude, licensed or unlicensed: Every single insurance claim adjuster shares one constant in his evaluation of the claim. **THE ADJUSTER REPRESENTS THE INSURANCE COMPANY'S INTEREST, NOT THE INSURED'S.** No matter how nice they are, how experienced or knowledgeable they sound,

all insurance adjusters are there to protect an insurance company's interests, whether they are aware of it or not.

Insurance companies as a whole have become VERY good at implementing strategic policies which assist them in underpaying claims and protecting their profits. These strategies can range from subtle or obvious, but most of these strategic policies widely contradict the promise made

to policyholders through the contracts they agreed to, which is the insurance policy.

The business of adjusting insurance claims has experienced a paradigm shift in the way that claims settlement is managed. Twenty years ago, the claims business was based on relationships and reputation. Then it was critical to ensure your policyholders experienced positive claims experiences, as word of mouth was critical to increasing the amount of policyholders an insurance company retained.

Nowadays the business is a numbers game, and every policyholder, every region and every claim are a number. Policyholders are a premium number that insurers must maximize and claims are an expense number that must be

minimized at all costs. Today, widespread marketing tactics have replaced the necessity of a positive claims experience, leaving consumers to be immersed in TV, radio, sponsorship and print advertisements promising pleasant claims experiences and reduced premiums.

You might be thinking to yourself, "Surely you can't be insinuating that the claims environment is stacked against the insureds through the use of these strategies and a numbers approach to claims?" but that's exactly what I'm saying, and I'll back it up with examples.

A Public Insurance Adjuster is the antithesis of the Insurance Company Adjuster, and their tactics. PAs are trained specialists, licensed to represent the policyholder's



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interests in their pursuits for damages owed in the event of a claim. They are experts in policy language and coverage, claims presentation, claims settlement negotiations, and with a select few PA's, construction and restoration. These skills serve to help balance the scales for policyholders when they need it most—once they have suffered a loss. Does it work?

A recent study published by the Office of Program Policy Analysis and Government Accountability (OPPAGA) in Florida, showed that claims represented by a Licensed Public Insurance Adjuster resulted in an average increase of 747% in catastrophe claims settlement amounts, when compared to similar claims represented by the policyholder. How can this be? How are these increases possible? Why are claims so underpaid?

These types of questions have been the source of hours of debate, research and discussion with my clients, colleagues, contractors, attorneys and insurance company adjusters in the field. While the specifics may vary, the general framework is that insureds and their representatives rarely know their rights and what a policy affords them, let alone how to navigate the turbulent waters of a claims process. Insurance claims are complicated, interpreting policy is complicated and construction requirements can be complicated. Combine that with the disagreements that come between the interpretation and negotiation of these complex issues and you're in for a tough experience when you try to get what is owed.

So what does a Public Adjuster do?

In a nutshell, a Public Adjuster takes on the five main components of the claims process:

First, the PA completes a detailed review of the insurance policy. A public adjuster will review the policy's terms and conditions, including the declarations, insuring agreements, exclusions and limitations, as well as any conditions and endorsements that may affect coverage. This is a highly technical process, which requires the PA to meticulously analyze the specific language of the policy to fully understand what may be owed to the insured for the loss. Policies are very confusing and can be filled with industry terms and legal jargon. Often times in cases of ambiguous language a PA needs to consult an attorney.

Secondly, a PA must complete a thorough investigation of the damages and scope of loss. This in-depth investigation begins with an analysis of the cause of the loss, the extent of the damages, and necessary repairs to restore the policyholder to a pre-loss condition given the coverages afforded under each specific policy.

Thirdly, the documentation of the claim must be compiled. As the insured, you are required under the insurance policy to prove the loss was caused by a covered peril and present the loss to the insurance company. This can be an involved and detailed process requiring time and expense to meet the requirements of the policy. PAs ensure accurate and thorough claim documentation files are compiled and delivered to your insurance company.

This in-depth process includes: 1) detailed and factual proof of the cause of loss; 2) detailed construction estimates with supporting engineering documents when necessary; 3) detailed and verified inventory and contents schedules with correct valuation and supporting documentation; 4)

in-depth business interruption coverage analysis, which includes projections and forecasts; 5) the required technical and supporting documentation showing the current industry standards in claims adjusting; 6) and, finally, proof that the loss is covered under the policy.

Fourthly, after the full extent of the loss has been determined and documented, it undergoes a complete review by the PA, which may include a peer review. The claim is then segregated into the separate categories, which conform to the various policy provisions and coverages that apply. A thorough review of the documents is made with the client, and after final approval, the property insurance claim is submitted to the insurance carrier, including the "Sworn Statement in Proof of Loss".

Finally, the last step is the negotiation and settlement of the claim. Upon submission of the claim presentation, the PA will initiate claims negotiations with the insurance company. He will answer any claim clarification requests posed by the insurance company. It is common for an insurance company to attempt to drag out the fair settlement of claims. Understanding the tempo and dictating the pace of the claims negotiations is critical to an accurate yet prompt settlement of a claim. It is typical that there may be some negotiations regarding the claim, which many times boil down to justifying the value and legitimacy of the claim components. A well-defined, professionally documented position is critical to gaining the insurance company representative's respect.

Why should an experienced association manager work with a PA?

First, most states have laws requiring a person adjusting a claim to hold a Public Adjusters license or to be a licensed attorney. While it is not uncommon for an association manager to oversee and adjust a claim for the association, he does so at an incredible risk. Insurance policies are contracts, and like all contracts both sides have expectations and obligations to live up to, or there are consequences. Insurance claims have MANY deadlines and requirements of the policyholder. These requirements include timelines by which documents or requests must be submitted or adhered to; all of which, if not properly complied with, can result in the outright denial of a claim, a denial that could be binding.

There are many instances of association managers making critical errors in complying with such deadlines and requests at great detriment to their client's claims. Many association managers have been sued by their clients in these situations to recover damages for the losses as a result of their mistakes. As an association manager, can you imagine the ramifications if you missed a deadline, or made a mistake in the claim that resulted in a denial?

The same holds true for an association's board when adjusting claims on behalf of the owners or tenants. If a board were to have a valid claim denied as a result of its failure to comply with the terms of the policy, it exposes itself to risk of being sued by the homeowners. While many may have "directors and officers liability" coverage to protect against the financial impact of such action, a claim like this is not worth the risk.

Top 10 Things a PA Can Do For an Association Manager

1. Eliminate the professional liability risk taken by association manager when adjusting an insurance claim on behalf of the client.
2. Eliminate the liability risk taken by an association's board when adjusting a claim on behalf of the association.
3. Eliminate the time and costly expense of trying to navigate a claim without the appropriate experience and strategy.
4. Ensure that when filing claims, associations are doing so in accordance to all policy terms, conditions and requirements, including sensitive timetables contained within the policy.
5. Reduce the amount of time and stress in the claims process by implementing the proper strategy, documentation and supporting facts and evidence of the claim for damages.
6. Maximize the claims recovery and settlement on behalf of the insured, recovering all money owed under the policy terms.
7. Ensure that amounts received afford associations the ability to hire high quality contractors to restore the property in accordance with manufacturer installation specifications and prevailing building codes, without cutting corners on quality or safety.
8. Identify damages, which may already exist to association property that will otherwise go unnoticed. This can eliminate the need for future special assessments to exteriors when unidentified damages may be present.
9. Provide consultative reviews of active or previous claims to ensure claims were properly adjusted, and take action if improperly denied or underpaid.
10. Review current association policies, providing guidance and consultation on any policy weaknesses, underinsuring concerns, policy language concerns and areas of exposure within the policy to the association.

Secondly, insurance claims are complex and confusing, which an insurance company can use to its advantage in a claim adjusted by a nonprofessional. Often times, coverages, damages and amounts owed are misinterpreted and, in the absence of experience, will go uncorrected. This can translate into many claims, potentially worth millions of dollars, failing to be paid.

Thirdly, insurance claims, when adjusted properly, can require a significant amount of hours and expense to present properly. It is not uncommon for a PA to have 100+ hours and \$20,000+ of his own money tied up in presenting a claim for an insured. Most association managers are extremely busy, and quite frankly don't have the time, nor want to spend the time to stumble through the claims process.

Fourthly, a PA will obtain a much higher settlement for your client. This will result in the ability to complete the restoration of damaged property with the highest level of quality controls, superior products, and better warranties with the utmost attention to detail and safety from a high-grade contractor. Most association managers take this for granted until an underpaid insurance claim results in a contractor having to cut corners on construction. Most associations who have allowed their insurance companies to settle their claims uncontested, will be forced to work with a contractor who will be required to cut corners on the project in order to make a profit on the job. A PA knows how to secure a settlement that will ensure the association

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managers are not chasing the consequences of poor construction for decades to come.

Finally, PAs with construction backgrounds will often have programs to monitor your associations and bring possible losses, usually by weather related events, to your attention. Hail and wind commonly strike without any lingering affects to the untrained eye. They can strike at night and leave damage that can be hard to identify without high levels of training, and their affects are not always immediate.

Most damages caused by hail and wind, unless they have created large holes in roofs and shattered windows, will go unnoticed. This results in money owed to an association that never gets paid. Long term this translates into roofs deteriorating much quicker than they should and associations incurring replacement costs at their own expense. Nothing is more upsetting than seeing a 40-year or 50-year roof product diminished by a hailstorm to a 20-year

roof, and knowing the association will pay for it out of pocket 30 years before it had planned or budgeted to.

Will the Association’s premiums increase when filing a claim?

This is almost always the first question and concern I get from new clients. This is a common perception, due to the public’s understanding of auto insurance premiums, which typically assign higher premiums to those who drive poorly, get tickets, or are responsible for accidents. While auto insurance premiums are based more upon an individual’s performance, property insurance premiums are determined a bit differently.

Insurance carriers are required to provide the state’s department of insurance their criteria for determining property premiums. These criteria consist of numerous factors, including property age, type of construction, property use, cost to replace property, policy coverage terms, regional risks of loss, past claims losses by region, and claims history of the property, to name a few. These factors are compiled on a regional basis, and are used to determine premium calculations. For this example, assume we are talking about the exact same building. If we took this building and insured it in Colorado, then took this building and insured it in Arizona, the property insurance premium would typically be two to three times more expensive in Colorado than it would be Arizona. Reasons? Colorado gets significant hail almost every year. We have winters, which result in pipes freezing and breaking; we have wildfires, which drive losses up for insurers, and our cost of construction and subsequently replacing property is higher. All these reasons require an insurer to charge more in premiums to make a profit in Colorado, as opposed to Arizona, where these factors are non-existent.

My clients commonly have potential premium increases as a reservation, and unfortunately I cannot consult a crystal ball and predict their premiums’ future. Here is what I can tell you: in instances where you have natural disasters, which cause widespread claims, it is not the standard for insurance companies to review your premiums on a singular level, and determine premiums on that claim alone.

Property insurance premiums in Colorado have gone up significantly over the past few years as a result of abnormal and excessive losses due to flood, hail and wildfire. These premium increases have affected everyone, whether or not they filed a claim. Whether or not you file a claim, your premiums are likely going up, and leaving damaged property unrepaired is unlikely to combat that.

There are other premium impact criteria to consider in this scenario. Often times, in the cases of hail and wind losses, damaged roofs and exteriors are replaced with products that have made leaps and bounds in regards to lifespan and hail resistance. Many have seen a premium reduction simply by replacing a more susceptible roof system with a newer hail resistant roof system.

When an association has a claim, especially for wind and hail losses, the amount of money usually owed to replace this type of damage will typically offset the unlikely risk of premium increase. If you live in an area affected by a large-scale catastrophe, everyone’s premiums will likely increase.

Don't sit around and end up one of the few that will have their premiums increase without being restored to a pre-loss condition if you have damage.

How much does a PA Charge?

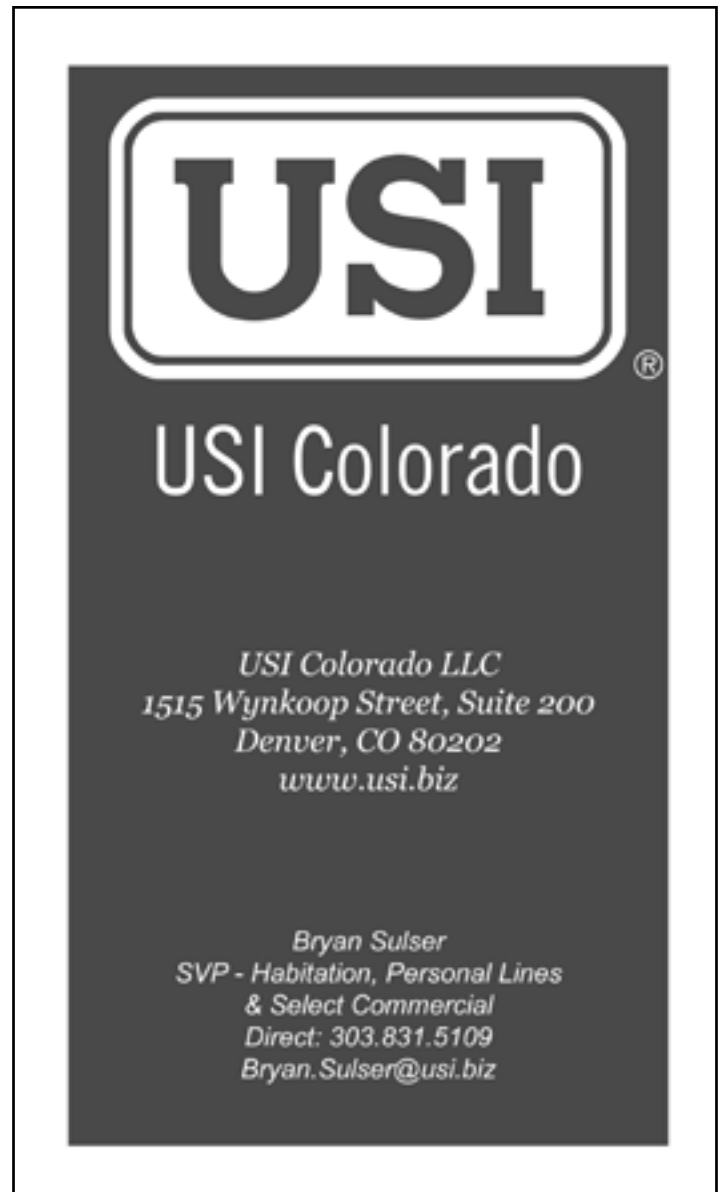
Most PAs will charge their fee on a contingent basis, meaning that they receive a percentage of the claim based on the final settlement amount. Usually, this fee is 10%, but can be higher or lower depending upon many factors, such as the status of the claim, claim size, loss type, and state regulations. The contingent fee system is beneficial to insureds, as it requires the PA to generate results to be compensated. This ensures that the PA has a vested interest in the prompt and proper settlement of the claim.

Summary

PAs are a powerful ally and resource in the claims management process. A PA will ensure that covered losses are paid for, and that all money owed under a policy for a particular loss is recovered. They prevent legitimate claims from being underpaid or denied, and when they are, PAs outline and execute the plan to recover money owed under the policy. A good PA will have the experience to get your claim on the fastest track to a fair settlement of the damages. ⬆

Derek O'Driscoll is a Licensed Public Insurance Adjuster, and the President of Impact Claim Services, LLC, a Colorado Based public adjusting and claims management firm. Derek spent many years in the restoration construction side of the insurance claims industry. This experience is now used to advocate for policyholders as a Public Adjuster.

Derek and his firm specialize in large loss hail and wind claims specifically to commercial and multi-family properties and associations. Derek has served as an expert witness and has been involved in thousands of insurance claims caused by hail, wind and water. The firm provides highly specialized services and programs customized to meet the needs of commercial property owners, property managers, association managers, contractors, banks, builders developers, resorts, hotels and churches.



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