

Appraisal Includes Determination of Causation

A typical appraisal provision says that the parties will agree to appraise the “amount of loss.” Parties sometimes argue the “amount of loss” only applies to the valuation of the cost of the repairs, and not to the scope of the repairs or whether the needed repairs were caused by the covered peril; *i.e.*, caused by wear and tear or caused by windstorm.

Most courts have adopted an expansive view of what constitutes the “amount of loss,” and have held that such language empowers the appraisers to resolve issues like the scope of damages and causation. These courts agree that whether coverage exists under a policy—liability—is a question for the court. But whether the damage was caused by wear and tear, windstorm, faulty workmanship, or some other peril is an issue of causation that is subject to appraisal. Under this approach, the appraisers determine what peril resulted in the loss, and the court’s job is limited to deciding if that peril is covered or excluded under the terms of the policy.

In *Walnut Creek Townhome Association v. Depositors Insurance Company*, 2017 WL 3077916 (Iowa), the court agreed with the majority rule that “as an incidental step in the appraisal process . . . the appraisers must necessarily determine the cause of the loss, as well as the amount necessary to repair the loss.” Based on the factual findings made by the appraisers, it is then the court’s job to determine whether coverage exists. If so, the appraisal award will be reduced to a judgment against the carrier; if not, then a motion for judgment will be denied.

The appraisal panel in *Walnut Creek* determined that the roof damage was caused by hail, not deterioration due to defective construction. The trial court, when asked to affirm the award, refused based on its own conclusion that the roof shingles contained a manufacturing defect that triggered deterioration and resulted in the damage.

The court of appeals reversed and reinstated the appraisal award because the trial court’s finding was “inconsistent with the binding conclusions of the appraisal panel and must be rejected. The appraisal panel’s binding fact findings support the conclusion hail caused this damage.”

Takeaway: Appraisers should do more than simply state the amount necessary to repair the loss. They should also set forth the peril that they find resulted in the loss. In many cases, the peril may be obvious and uncontested—fire, for example, which is always a covered peril. Where the issue is hazier, however, such as with roof damage or water damage involving several possible causes or perils, the appraisers, if they want their award to be final and binding on the court, must make factual findings as to causation or risk having the court substitute its own factual findings for those left unstated by the appraisers.