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Oakland Hills Firestorm: Insurance Issues

Senate Committee on Insurance, Claims and Corporations

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SENATE COMMITTEE
ON
INSURANCE, CLAIMS AND CORPORATIONS

SENATOR ART TORRES
CHAIRMAN

OAKLAND HILLS FIRESTORM:
INSURANCE ISSUES

OCTOBER 14, 1993

OAKLAND, CALIFORNIA
Senate Committee on
Insurance, Claims and Corporations
Art Torres, Chairman

Oakland Hills Firestorm: Insurance Issues
October 14, 1993
Oakland, California
WELCOME & INTRODUCTION

THANK YOU FOR JOINING US IN THIS HEARING OF THE SENATE INSURANCE, CLAIMS AND CORPORATIONS COMMITTEE. MY NAME IS ART TORRES, CHAIRMAN OF THE COMMITTEE.

TODAY WE WILL HEAR ABOUT THE INSURANCE ISSUES ASSOCIATED WITH THE EAST BAY FIRESTORM OF 1991. WE WILL HEAR FROM INSURANCE COMMISSIONER GARAMENDI, HOMEOWNERS WHO EXPERIENCED LOSSES IN THIS FIRESTORM, AND INSURANCE COMPANIES WHICH HAVE BEEN AFFECTED BY THIS BLAZE.

THE FIRE

THE FIRESTORM WAS A HUGE DISASTER FOR THE FAMILIES INVOLVED. THEY LOST EVERYTHING; HOMES, POSSESSIONS, VEHICLES, AND WORKPLACES FOR MANY. THIS FIRESTORM RESULTED IN 25 DEATHS, 150 INJURIES, AND THE LOSS OF OVER 2,800 HOMES, APARTMENTS AND CONDOMINIUMS. THE DOLLAR DAMAGES ARE ESTIMATED TO EXCEED 1.5 BILLION DOLLARS.
SCOPE AND PURPOSE

THIS HEARING WILL EXPLORE THE KEY AREAS OF HOMEOWNER'S COVERAGE -- STRUCTURE, CONTENTS, LIVING EXPENSES -- AND WHAT FURTHER STEPS NEED TO BE TAKEN TO AVOID UNNECESSARY DELAYS AND PREVENTION OF SATISFACTORY REBUILDING OR RELOCATING.

WHEN CONSIDERING TESTIMONY, I WANT THE COMMITTEE, LEGISLATORS, AND THE INSURANCE COMMISSION TO ASCERTAIN PATTERNS OF PROBLEMS AND FIND APPROACHES TO RESOLVING DIFFERENCES.

PROBLEM AREAS

THE COMMITTEE HAS RECEIVED NUMEROUS COMPLAINTS CONTENDING COMPANY ERRORS, MISCALCULATIONS AND UNDER-ASSESSMENTS. OTHERS REPORT UNNECESSARY DELAYS AND BURDENSOME REQUIREMENTS.

"FIRES AND EARTHQUAKES ARE A FACT OF LIFE IN CALIFORNIA, AND I WANT TO HELP ENSURE THAT POLICY HOLDERS ARE NOT BEING VICTIMIZED TWICE BECAUSE OF UNWARRANTED DELAYS OR BAD FAITH TACTICS BY THEIR INSURERS," SAID TORRES.

"I AM CONCERNED ON THE SECOND ANNIVERSARY OF THE OAKLAND HILLS FIRESTORM THAT HOMEOWNERS WHO HAVE BEEN UNABLE TO REBUILD BECAUSE OF DELAYS IN CLAIMS SETTLEMENT, ARE ABOUT TO HAVE THEIR LIVING EXPENSES TERMINATED," DECLARED SENATOR TORRES.
I WANT IT TO BE CLEAR THAT I WILL INTRODUCE LEGISLATION TO PROVIDE GREATER DISCLOSURE TO HOMEOWNERS, TO STREAMLINE THE PROCESS WHICH NOW CAUSES UNNECESSARY DELAYS, AND TO HELP PREVENT COERCIVE TACTICS BY ANY UNSCRUPULOUS INSURANCE PERSONS.

VOLUNTARY TESTIMONY ONLY

BEFORE HEARING FROM WITNESSES, I WOULD LIKE TO EXPLAIN THE PROCEDURES THAT THIS COMMITTEE WILL USE FOR TAKING TESTIMONY FROM PERSONS WHO CHOOSE TO APPEAR VOLUNTARILY BEFORE THIS COMMITTEE.

TODAY, THIS COMMITTEE IS CONDUCTING AN INVESTIGATORY HEARING ON THE INSURANCE ISSUES CONCERNING THE EAST BAY FIRESTORM FOR THE PURPOSE OF DEVELOPING RECOMMENDATIONS TO BE SUBMITTED TO THE LEGISLATURE. THIS COMMITTEE IS NOT A JUDICIAL BODY OR AN ADMINISTRATIVE BODY. IT IS NOT MEETING FOR THE PURPOSE OF ADJUDICATING OR DETERMINING THE RIGHTS OF ANY INDIVIDUALS WITH RESPECT TO ANY CASE OR CONTROVERSY THAT MAY EXIST OR THAT MAY BE THE SUBJECT OF ANY EXISTING COURT OR ADMINISTRATIVE PROCEEDING. CONSEQUENTLY, THE COMMITTEE DOES NOT WANT TO BE PLACED IN THE POSITION OF AFFECTING ANY PENDING OR POTENTIAL CASE OR CONTROVERSY BEFORE ANY JUDICIAL OR ADMINISTRATIVE HEARING. THE COMMITTEE ALSO DOES NOT WISH TO BE PLACED IN A POSITION WHERE IT CAN BE CLAIMED THAT A PERSON RECEIVED IMMUNITY FROM ANY POSSIBLE CRIMINAL PROSECUTION BECAUSE OF THE PERSON'S TESTIMONY BEFORE THE COMMITTEE. TODAY THE COMMITTEE WILL TAKE TESTIMONY ONLY FROM THOSE PERSONS WHO CHOOSE TO TESTIFY VOLUNTARILY BEFORE THE COMMITTEE. THE COMMITTEE WILL NOT COMPEL ANY PERSON TO TESTIFY BEFORE THE COMMITTEE AND WILL NOT REQUIRE ANY WITNESS WHO TESTIFIES TO ANSWER ANY QUESTION THAT THE WITNESS REFUSES TO ANSWER.
SETTLEMENTS

I ALSO WANT TO REMIND ANY WITNESS THAT HAS SIGNED A SETTLEMENT AGREEMENT WITH AN INSURANCE COMPANY, TO BE CAREFUL TO ABIDE BY THE TERMS OF THEIR AGREEMENT. THERE ARE SETTLEMENT AGREEMENTS THAT HAVE A CONFIDENTIALITY PROVISION THAT IS NOT TO BE VIOLATED IN ORDER TO MAINTAIN THE AGREEMENT IN OPERATION.

INTRODUCTION OF OFFICIALS

AT THIS TIME, I AM HAPPY TO INTRODUCE:
ASSEMBLYWOMAN BARBARA LEE (16TH AD)
ASSEMBLYMAN TOM BATES (14TH AD)
MAYOR ELIHU HARRIS, CITY OF OAKLAND
CITY COUNCIL MEMBER SHEILA JORDON, CITY OF OAKLAND, AND COUNTY SUPERVISOR KEITH CARSON,
COUNTY OF ALAMEDA
OAKLAND HILLS FIRE: INSURANCE ISSUES

OAKLAND, CALIFORNIA
OCTOBER 14, 1993
AGENDA

I. 9:30 A.M. CHAIRMAN TORRES - OPENING REMARKS

II. 9:35 A.M. STATEMENT OF COMMITTEE MEMBERS AND LOCAL OFFICIALS

III. 9:45 A.M. INSURANCE COMMISSIONER GARAMENDI

IV. 10:00 A.M. HOMEOWNERS AFFECTED BY THE 1991 FIRESTORM

A. Ina Delong, Co-Founder, United Policyholders

B. Rebuilding the Home

   George Kehrer
   Jim Servais
   Robert and Bonnie Bruce
   Constance Carlson
   Brenda Reed

C. Relocating to Another Site

   Betty Ann Bruno
   Clara Ree
   Chris O'Connell
   Craig Scheiner

D. Contents Replacement

   Howard Matis
   Charles Lutner
   Cherie Wetzel
E. Additional Living Expenses (ALE)

Bob Unger
Robert Wyland
James Watts
Florence Piliavin
Blaine Vetter

F. Recommendations

Peter Dempsey

V. 11:00 A.M. INSURANCE COMPANIES AFFECTED BY THE 1991 FIRESTORM

Representatives of:
State Farm
Farmers
Allstate
Transamerica
Safeco
CSAA
Others

VI. 11:50 A.M. CHAIRMAN'S CLOSING REMARKS

VII. 12:00 NOON MEETING ADJOURNED.
October 14, 1993

TO: MEMBERS OF THE SENATE
INTERESTED PERSONS

FROM: ART TORRES, CHAIRMAN
SENATE COMMITTEE, ON INSURANCE, CLAIMS AND CORPORATIONS

RE: EAST BAY FIRESTORM OF 1991: INSURANCE ISSUES

This paper contains background information for the hearing of the Senate Insurance, Claims and Corporations Committee scheduled to be held on Thursday, October 14, 1993, at the Caltrans District Office Building, located at 111 Grand Avenue, Auditorium, Oakland, CA.

This paper briefly describes the original firestorm disaster, reports on various problems identified by homeowners who have outstanding homeowner's insurance claims, and raises several questions that are expected to be addressed at the hearing.

The 1991 Firestorm and Resulting Losses

On October 20-21, 1991, a firestorm swept portions of the Oakland Hills and Berkeley Hills areas. A combination of strong winds, very dry brush, hot weather, and steep terrain combined to burn structures down to their foundations (damaging many foundations) and bending thick steel beams in the area. The fire burned for over 24 hours.

This firestorm resulted in 25 deaths, 150 injuries, and property damages exceeding $1.3 billion. The firestorm burned an estimated 1,900 acres and destroyed more than 2,800 homes, condominiums and apartments.
Within weeks of the disaster, a preliminary count of fire losses by the State Office of Emergency Services showed the following:

<table>
<thead>
<tr>
<th>Human Toll</th>
<th>Property Losses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death: 25</td>
<td>Residences destroyed: 2,449</td>
</tr>
<tr>
<td>Injuries: 150</td>
<td>Apartment units destroyed: 437</td>
</tr>
<tr>
<td></td>
<td>Rental structures destroyed: 3</td>
</tr>
<tr>
<td></td>
<td>Residences partially damaged: 121</td>
</tr>
<tr>
<td></td>
<td>Vehicles destroyed: 2,000</td>
</tr>
</tbody>
</table>

One year after the disaster (as of October 20, 1992), the State Department of Insurance (DOI), reported that 3,997 homeowners insurance claims had been submitted for firestorm losses. Of these, 1,927 claims were for total losses. DOI reported that as of October 20, 1992, 387 renters claims had been submitted. Of these, 215 were for total losses and 172 were for partial losses. The Department of Insurance found that as of October 20, 1992, homeowners and renters claims exceeded $1.5 billion. Attachment 1 is a statistical summary of firestorm losses compiled by the Department of Insurance as of October 20, 1992.

The Department of Insurance found that 78% of the total dollar amount claimed by all parties was paid by October 20, 1992 ($1,359 million of $1,733 million). See Attachment 1 for more detail.

**Types of Problems Reported by Policyholders**

Policyholders who have communicated with the Committee reported a variety of problems associated with the key areas of homeowners policies. These include the coverages for rebuilding one's home, relocating to another site, contents replacements, and additional living expenses (ALE). Among the types of problems reported by policyholders are insurance company errors, miscalculations and under-assessments of the value of their former structure or possessions. Other problems identified were unnecessary delays and burdensome requirements, including legal fees to secure the monetary compensation. Other areas are expected to be covered at the hearing.
Issues for Committee

The Committee is expected to hear from the firestorm policyholders as well as the affected insurance companies. Both parties are asked to address the key areas of homeowners coverage (structure, relocation, contents, and additional living expenses).

In each key area:

1) What has been done?

2) What is in the process of being accomplished?

3) What changes are needed or recommended in policy provisions, regulations, and/or state statutes?

4) Are changes needed in federal law to address large-scale disasters?

If so, what are these and what should the state do to help achieve these reforms?

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SENATOR ART TORRES, CHAIRMAN: Thank you for joining us in this hearing of the Senate Insurance, Claims and Corporations Committee. My name is Art Torres, Chairman of the committee.

Today we will hear about the insurance issues associated with the East Bay firestorm of 1991. We will hear from Insurance Commissioner Garamendi, homeowners who experienced losses in this firestorm, and insurance companies which have been affected by this blaze.

The firestorm was a huge disaster for the families involved. They lost everything: homes, possessions, vehicles, and workplaces for many. This firestorm resulted in 25 deaths, 150 injuries, and the loss of over 2,800 homes, apartments and condominiums. The dollar damages are estimated to exceed $1.5 billion.

This hearing will explore the key areas of homeowner's coverage -- structure, contents, living expenses -- and what further steps need to be taken to avoid unnecessary delays and prevention of satisfactory rebuilding or relocation.

When considering testimony, I want the committee, legislators, and the Insurance Commissioner to ascertain patterns of problems and find approaches to resolving differences.

The committee has received numerous complaints contending company errors, miscalculations and under-assessments. Others report unnecessary delays and burdensome requirements.

Fires and earthquakes, we know, are a fact of life in our state and I want to help ensure that policyholders are not being victimized twice because of unwarranted delays or bad faith tactics by their insurers.

I'm concerned that this is the second anniversary of this disaster and that many homeowners have still been unable to rebuild because of delays in claims settlement and are about to have their living expenses terminated.

I want it to be clear that we will introduce legislation to provide greater disclosure to homeowners in the future, to streamline the process which now causes unnecessary delays, and to help prevent coercive tactics by unscrupulous insurance persons.

I did not come here today to make life easier. Your pain has been great already. (Trouble in recording - portion missing.)
We have full subpoena powers available to this committee but we have chosen not to exercise those today, unless we feel in the future that might be exercised.

This is not a judicial body or an administrative body. It is not meeting for the purpose of adjudicating or determining the rights of any individuals with respect to any case or controversy that may exist or that may be the subject of any existing court or administrative proceeding. Consequently, the committee does not want to be placed in a position of affecting or jeopardizing any pending or potential case or controversy before any judicial or administrative hearing. The committee also does not wish to be placed in a position where it can be claimed that a person received immunity from any possible criminal prosecution because the person's testimony occurred before this committee.

Today the committee will only take testimony from those persons who choose to testify voluntarily before this committee. We will not compel any person to testify and we will not require any witness who testifies to answer any question that the witness refuses to answer.

I also want to remind any witness that has signed a settlement agreement with an insurance company to be careful to abide by the terms of your agreement. There are settlement agreements that have a confidentiality provision that is not to be violated in order to maintain the agreement in operation, and I just want to make sure that if you have such agreement that you protect your interests before this committee.

We'd like to welcome to our hearing today Sheila Jordan, who is a member of the City Council of Oakland. Welcome to the committee, Ms. Jordan.

COUNCILMEMBER SHEILA JORDAN: Thank you, Chairman.

CHAIRMAN TORRES: Right now I'd like to ask Commissioner John Garamendi to please come forward.

COMMISSIONER JOHN GARAMENDI: Mr. Chairman, thank you very much for the invitation to appear. I was going to present my testimony but after your last admonition, I'd like to consult with my lawyers. (Laughter.)

Having done so, I am prepared to ...(recording problems)

CHAIRMAN TORRES: After your position and my position on no fault, I don't think any lawyer wants to talk to us.

COMMISSIONER GARAMENDI: I am fortunate enough to be able to hire and pay them and they are assisting me today. Joining me here at this table is Gary Hernandez, my Deputy Commissioner; and Cindy Ossias, the counsel who has worked throughout the process of the Oakland fire claims and the report that we're presenting today.
I want to thank you for the opportunity to appear and to address the actions of the Department of Insurance and what we did in the aftermath of the Oakland firestorm and what we have learned in the last two years.

This disaster is recognized as the worst urban wildfire in our nation's history. Twenty-five residents were killed, more than 3,000 homes destroyed, and according to the data that we have collected, the losses are in the range of $1.9 billion of insured coverage.

While some insurance companies dealt fairly and squarely with their policyholders when it came to adjusting claims, others engaged in outrageous and despicable practices which enraged homeowners and brought the full weight of the Department down upon them. In one instance, we levied the largest monetary penalty in the Department's history -- $1 million -- on an insurance company and their agents after they were charged by us with hundreds of violations.

By sharing the lessons that the Department has learned from this disaster we hope that permanent changes will occur in the way in which homeowners insurance is marketed, serviced and regulated.

Let me first briefly cover the actions that the Department took following the fire.

On the day of the fire we established contact with the Federal Emergency Management Agency and the State Office of Emergency Services to exchange information and to monitor developments. The following day we placed key personnel at information and assistance centers in the disaster area to provide victims with fact sheets and guidance on insurance matters, such as how to get in touch with their company, how to make a claim. Within a very short period of time after the fire, we were counseling over 2,000 individuals at these centers.

The second day I personally toured the fire area and spoke with many residents in front of their charred and destroyed homes. For me, this disaster is not an abstraction but a very real memory of walking through whole neighborhoods which had been completely wiped out.

To get help to the victims fast we widely distributed our toll-free 800 hotline in the assistance centers and through news media, and within a matter of weeks we received over 1,500 calls from victims seeking help.

Through the end of 1991 and the beginning of 1992 representatives of the Department met with victims and their insurance companies to provide assistance and to speed the claims process. At a single meeting in January our staffers met with over 400 Oakland and Berkeley residents, but by the spring it had become very clear that many of these victims were not receiving the kind of help they had been promised when their agents had initially sold them their insurance policies.
A survey which we published at that time revealed that the primary problem faced by victims was a lack of adequate insurance coverage. Homeowners' limits were substantially below the cost of rebuilding dwellings and replacing contents. At a community meeting here in Oakland 18 months ago I promised to work on behalf of the consumers in their effort to gain full replacement cost coverage necessary to rebuild their homes and their lives. I said that we would investigate reports of insurance company wrongdoing and take enforcement action against companies who had violated the law, and that we also supported legislation requiring the insurers to offer and clearly explain the meaning of "guaranteed replacement cost".

Following that meeting I met with a number of insurance company executives to discuss the concerns that the residents were being victimized a second time by their companies. Initially, only a couple of companies chose to fully cover policyholders irrespective of policy limits but that number was to grow substantially over time.

I ordered the Department to initiate market conduct examinations on five major companies alleged by policyholders to have acted improperly, one of them being the company that was eventually fined $1 million. I also asked all insurance companies to report to me on their efforts to resolve outstanding issues to the satisfaction of their customers.

At an investigatory hearing I called in May I set July 20th as the deadline for claims settlement and advised companies that they would have to explain any claims that had not been resolved as of that time.

By that deadline we began to see some results. While the companies reported that 32 percent of the total loss claims were still unresolved, they also stated that they had upgraded coverages or reformed, rewritten contracts to give policyholders an additional $151 million in value.

In September we charged Allstate Insurance Company and eight of its agents with 153 underwriting and claims handling violations. We alleged that the agents falsely misrepresented policy coverage to fifteen policyholders and that the company failed to properly handle the claims of ten other policyholders. Three months later Allstate paid a $750,000 penalty for its own account and a $250,000 penalty on behalf of agents.

In December we published a second survey taken on the first anniversary of the fire that showed considerable improvement by the companies in adjusting claims. By then the companies reported that they had provided to policyholders reformed contracts and upgraded coverages worth $274 million. The number of unresolved total loss claims was reported at 8 percent.

Most recently, in a survey that was taken in April and is being released
today for the first time, insurers were reporting only 3 percent of total loss
claims were unresolved, and that upgrades and reformed contracts have given
policyholders an additional $329 million in value.

Now, I realize that many policyholders may view these insurance
company-provided statistics with some skepticism. I understand that you will
hear later today about an informal survey of one hundred policyholders that puts
the unresolved claims total at around 20 percent. Our Department has in the
past and will continue to work closely with policyholder groups, and I would be
very interested in seeing the details of their surveys and to have the
opportunity to analyze this apparent discrepancy between our two surveys.

As part of our effort to focus the energy of these groups into real and
lasting change, it is our intention to appoint one of the representatives of the
policyholder groups to an insurance agent training curriculum advisory board. I
believe their inclusion on this panel will greatly improve the training that
agents receive.

What have we learned from our experiences and what can consumers, insurance
companies, and government do to improve the way in which the insurance is
bought, sold and regulated? Well, first of all, for consumers, a few lessons:
When buying your policy know what kind of coverages are available and then
decide what you want. Be a smart consumer and don't leave all your decisions to
the agent. Many firestorm victims did just that and they paid a very heavy
price as a result.

When shopping around call the Department of Insurance's toll-free hotline.
We can and we do provide information on agents, companies and the policies that
any person might be considering. The Department can also provide consumers with
an annual survey of the complaint rankings of the fifty biggest insurance
companies. That's a valuable piece of information. You may have a cheap
policy, you may also have some lousy service if you ever have to file a claim.

For homeowners the key decision is whether to buy replacement cost insurance
or guaranteed replacement cost coverage. Guaranteed replacement will provide
for the rebuilding or replacement of the dwelling that a person lost no matter
what the cost, even if it is higher than the policy limits. However,
replacement cost, at a maximum, will only cover you up to the policy limits, and
there is a very big difference in those two policies and that has been the
subject of legislation that came from this firestorm.

But even the term "guaranteed replacement" can carry with it certain hooks.
For example, it may not cover costs associated with the changes in building
codes since your home was purchased, and while the disclosure of such extra
coverage is now required by law, you should inquire about it specifically. It
is a big item and very important should there be a significant loss.

The contents of a home are frequently covered up to a maximum percentage of the dwelling's value. If a consumer has expensive furnishings or if you buy expensive items during the course of a policy, consumers must be sure to upgrade their policy accordingly. The added premium cost will be minimal, but in a complete loss consumers will be very glad to have purchased the additional coverage.

In the event that a consumer must file a claim, there are a number of things that a consumer can do to protect themselves and demonstrate to the company that they know what they're doing.

First, they should ask for written guidelines from the insurance company claims adjuster -- what's the game, what are the rules of the game? Be sure to keep a log of phone calls and copies of all correspondence, and importantly, organize your receipts and other documents so that you can get quick retrieval of them.

The Department of Insurance can provide a copy of our new regulations for claims settlement. Under these new rules companies must provide policyholders with claim forms, instructions and assistance within 15 days from the notice of the claim. After returning the forms the companies then have 40 days in which to accept the claim or explain why they have not done so. These rules and regulations serve to protect policyholders from footdragging, and these are the toughest standards in the nation. And incidentally, they were adopted subsequently to the fire.

Finally, if you are considering hiring a public adjuster -- that is, consumers considering hiring a public adjuster to handle the claims on your behalf, the consumer may want to contact the Department to check out the adjuster and to make sure that they are okay.

To summarize for consumers: First, know what kind of coverage is available and what kind is needed. Second, shop around for the best price and the best service. And third, when filing a claim know your rights and keep well-organized.

Now for the insurers. The lessons of the firestorm are many. Though they may not like hearing this from me, but they don't like much of what I say anyway, so here it goes, this advice is meant to be constructive -- I use that word in its many different meanings -- and to create a better relationship between the insurance companies and the customers they serve.

First, practice good underwriting. The insurance companies must review their underwriting guidelines to ensure that they fit all circumstances. They must be sure that their agents are properly trained to apply those guidelines.
For example, and we learned this in the Oakland fire, custom homes with unique features that existed in the Oakland Hills should have been underwritten differently from tract homes on flat lots. Unfortunately, many were not.

Insurance companies must be sure that the guidelines reflect the real cost of rebuilding and that limits on policy contents adequately reflect the value of the contents themselves. This all too often was not the case in the Oakland fire and it did result in one company paying heavily.

Second, take more responsibility in the marketing of policies. Increasingly, the courts are holding agents more accountable for negligent misrepresentations and failures to disclose information. Agents and companies must tell consumers in a clear way what the policy does and does not cover and how gaps in coverage can be remedied with additional insurance.

Code upgrade coverage, which I mentioned earlier, is just one example. Today, firestorm victims who believed that guaranteed replacement cost meant just that are finding themselves having to come up with thousands of dollars to pour their own foundations.

Third, companies must handle claims as though the scrutiny of the whole world is upon them. And it is. In the case of the Oakland fire it was, but unfortunately, when a single home burns down somewhere in one of our cities owners are left to fend for themselves. Policyholders had strength of numbers here in Oakland, they also had very good organizations to work with and they used that strength effectively to recover full benefits. But companies should not and cannot nickel and dime their policyholders when it comes to claims-paying time. The normal rule of the insurance industry should not apply, and that is to pay as little as late as possible. Companies should have learned the lesson that in times of catastrophic loss policyholders will band together to seek full coverage and not just what each company might choose to dish out.

In the case of a major disaster companies must be prepared with already established operating guidelines for just such an emergency. In the Oakland fire, insurance companies enraged policyholders by rotating adjusters in and out of the area, often every 30 days. The adjusters were often unprepared, unfamiliar with the claims that they were assigned to handle. This, in turn, angered policyholders who believed, rightfully, that they were getting the run-around.

Now, the new regulations which we have adopted now require companies to provide claimants with written information about what documents will be needed to receive reimbursement. Previously, the rules were not spelled out and adjusters, who were handling too many claims to begin with, failed to provide this information. Additionally, adjusters must be adequately trained and be
provided with continuing training to handle all losses.

Insurance companies must take responsibility for hiring and paying for any necessary experts to adjust claims but do so in consultation with the claimants. Importantly, construction analysts who are not ready, willing and able to build a home should not be relied upon to set the cost of rebuilding. We saw that all too often in the Oakland fire situation. It is unfair to require a claimant to abide by costs projected by an analyst who will not build the building and would not build the building. This is especially true in a post-disaster marketplace in which costs are often inflated.

In sum, insurers must learn to involve their claimants in the claims process. They must communicate effectively and frequently and at all times treat their claimants as intelligent human beings. Now, this will go a long way towards building the trust between companies and their consumers that in the case of this disaster was so seriously torn apart.

Now, the government has taken major steps in both enforcing existing laws and enacting new ones to more clearly spell out the responsibility of companies with respect to insurance marketing and claims handling. Effective this past July insurance companies must provide written disclosures to homeowners which fully explain replacement cost, guaranteed replacement cost and code update coverages. While this form represents a tremendous stride for consumer rights, improvements in the forms are necessary and the Department of Insurance staff will be working with legislators to finely tune this statute as they did in the initial drafting process.

Your committee, Senator, may also want to consider drafting legislation requiring agents to provide a copy of the policy before the sale is final, that is closed, and to require the insurers to offer policyholders a complete copy of their policies when a total loss claim is made. We found in the Oakland fire that all too often policyholders had nothing, no papers, nothing; and they had difficulty in obtaining copies of their policies.

In another area we suggest a modification of the statutory standard fire insurance policy. Interestingly enough, the Insurance Code prescribes a standard form for fire insurance in California which prohibits insurers from making additions or omissions that are not substantially the same or are more favorable to policyholders. Unfortunately, this form contains languages which exclude coverage, and I quote here from the law, or from the form itself: "For any increased cost or repair or reconstruction by reason of any ordinance or law regulating the construction or repair." That clause should be stricken. The state should no longer mandate an exclusion that has in the past and will in the future continue to adversely affect policyholders.
In conclusion, I hope that we have all learned from this disaster that while policyholders should take personal responsibility to protect themselves from being victimized a second time by their insurance companies, the insurance companies must take more responsibility for proper underwriting, marketing and the selling of their insurance products. By informing policyholders of the value of their coverage beforehand and dealing with them in a fair and open manner after the disaster strikes they will be more quickly able to rebuild both the policyholders' lives and their own reputations.

I'd be happy to answer any questions that you might have. There's a statistical summary that is available to you and I believe you have that. We can go through that if you would like.

CHAIRMAN TORRES: If you could give the Sergeant a copy of your remarks, Commissioner, that would be helpful to us as well.

Any comments from members of the panel?

I'd like to welcome Assemblyman Tom Bates to this panel, and of course, as I indicated before, Councilmember Jordan.

I want to give Councilmember Jordan an opportunity to say a few words, but before I do I want to make a personal note: I stayed many evenings at the home of my seatmate and friend Senator Nick Petris, and being as close as I have been over the last 20 years to Nick and Anna Petris, somewhat indirectly and personally I felt the anguish and the pain that many of you went through. But I also advised Senator Petris not to be here today so that it would not appear to be a conflict of interest on his part, being a member of this committee and arguing for resolution of these issues. So please do not take his absence as a lack of interest or a lack of concern or a lack of compassion for the issue, but merely advice that perhaps this would not be the appropriate forum for a victim to be part of a panel making sure that the resolution was achieved. But I can assure you that Senator Petris has been doing everything with me and we regularly read on the Senate Floor copies of the Phoenix and other articles that appear on your testimony in the past.

Councilmember Jordan.

COUNCILMEMBER JORDAN: Thank you, Chairman.

Before I begin there are a couple of people I thought it would be important to recognize who are joining us. County Supervisor Keith Carson, who represents this area, is here. And I saw Assemblyperson Barbara Lee just walk through and I think she's here as well. And Marge Gibson Haskell, who is our former city councilperson and also a fire survivor, is with us. So lots of important people here.

I think if there's one thing that has characterized the aftermath of the
fire it's the citizen participation aspect and the community pulling together. What we're doing in Oakland right now is attempting to rebuild our community; rebuild our community and strengthen the links that exist between the hills, the midlands and the flats.

I think this issue of insurance settlements is also very symptomatic of what's been going on in the hills. That is, we have had some very strong leadership from the ranks. I would like to personally thank Betty Ann Bruno and Ina DeLong, two people who helped pull this together, working together with our Senate, with our legislators. Tom Bates is somebody who has sponsored over and over again legislation to support the needs of our fire survivors as well as our schools and our community. And I think, Commissioner Garamendi, we would not be this far along without your strong support. I think that the last hearing that you called made a huge difference, a very huge difference, and many, many settlements have occurred in the progress that we continue to make. I think we in the Oakland Hills, in terms of rebuilding, are making dramatic progress.

But although we are a society that is ruled by the majority, we continue to be concerned about our minority, and what we're dealing with here are the very strong needs of the minority. As you pointed out it's not clear how big this minority is, but it really doesn't matter if it's only a handful of people. The fact is is that we are two years into this process and people are weary and there really is no need for us to have this continue.

So I really welcome all of you joining us here today and am very hopeful that we are going to be able to bring closure to this piece. We need to stop dealing with issues of insurance. And so I would implore the insurance companies to step up to the mat and really do everything in their capability to work with the remaining cases and close them. People's living allowances are just about gone, and really, we are in the business now of rebuilding homes, rebuilding communities and it really is -- it's hard to even relate to the fact that there are still folks struggling over their insurance claims.

So I am just here to listen, to give support to you. Certainly you know that the city would like to see all of these claims settled, and if there's anything that we can do at the city level to support your efforts we're here to do that.

COMMISSIONER GARAMENDI: Well, you can rest assured that this Department is not going to be satisfied with the performance of the insurance industry until every single claim is satisfactorily settled. We recognize that there are some that will inevitably wind up in litigation but the settlement of all of these claims, every one of them, is our goal. We're pleased that the companies changed their attitude and that some did a very good job, and we are very
unhappy with those that remain and we continue to hammer them. And we'll learn from this hearing some additional things, undoubtedly, that will assist all of us in the process.

CHAIRMAN TORRES: Thank you very much.

I'd like to welcome Assemblymember Barbara Lee to this committee hearing.

Mr. Bates, did you want to make a comment?

ASSEMBLYMEMBER TOM BATES: Well, just very briefly. I just want to thank you, Senator Torres, for immediately responding to our request to come here and hold a hearing. And Commissioner Garamendi, the work that you've done on behalf of our residents and citizenry has been outstanding and we really appreciate the work that you've done for us.

COMMISSIONER GARAMENDI: You also, Tom. You were there at the very outset.

ASSEMBLYMEMBER BATES: Well, thank you. Unfortunately, there's more to go so we need to stick with this until we get it done right. So I look forward to the hearing.

CHAIRMAN TORRES: Ms. Lee?

ASSEMBLYMEMBER BARBARA LEE: I'd just like to thank you, Senator Torres, and thank Insurance Commissioner Garamendi for being here.

You now, the Alameda County Legislative Delegation has worked diligently over the last two years to try to help minimize some of the severe problems that people have encountered as a result of this horrible disaster.

One of the problems that remains, again, are the problems that have to do with the insurance companies. And I tell you, for the life of me I don't quite understand it and that's why I'm happy to be here. Because when people buy homeowners policies and fire insurance policies they think they're purchasing coverage to prevent the kind of problems that people here are encountering. And so, to me, that runs antithetical to what insurance policies and fire insurance is all about.

So I appreciate the opportunity to participate here and I'm looking forward to hearing from everyone so I can get a handle on exactly why a lot of the troubles are still remaining.

Again, thank you very much, Senator Torres, for being here.

CHAIRMAN TORRES: You're very welcome, and the Alameda County Delegation is very persuasive to those of us from Los Angeles, so there's a good partnership going on.

Now let's get to the meat of the issue here and let's hear from the residents, and then we're going to have a panel of insurance company executives, all with bullet-proof vests, who will respond to those issues.

Welcome to the committee.

MS. INA DeLong: Thank you. Actually, they told me I only had two minutes.

CHAIRMAN TORRES: No, no, no. Garamendi went way beyond his allotted time, so you have an opportunity as well.

MS. DeLong: He has a little more clout than I do, though. We let him talk.

You know, what I would like to point out today, though, is that there are approximately 1,500 homes that are somewhere in the process of rebuilding. There is a very small percentage where they are actually occupied. And for the ones that are in the process, that can mean that they're anywhere from the permit process to maybe near completion. And while that number might be great, we have to keep in mind that if half of them are in the process that means half of them aren't, and we're two years down the road. And the product that's sold when you buy insurance is peace of mind and what you're going to find instead of getting peace of mind is that these people have been delivered stress, anxiety, physical problems, emotional problems -- lives that have literally been ripped apart by what they have been put through.

The statistics that are available to the Department of Insurance unfortunately come from insurance companies. We did a survey and we did this with the cooperation of UC Berkeley because we didn't want to be accused of selecting people that would try to prove our point. But we show that 48 percent of the people that we have contacted have not resolved their claims, that there are outstanding issues on that.

I don't need to go into all of the details of what these problems are because we have policyholders that have actually suffered this abuse that are going to tell you what the issues are.

We also have some statistics that will show that during the year of 1991, despite all of the whining that was done about the major losses, insurance companies were very profitable. As a matter of fact, their taxes exceeded the amount they paid in claims. I find it difficult to feel too sorry for them.

But Commissioner Garamendi, while seldom do I even attempt to reprimand him I'd like to point out to him that when he mentioned that consumers need to be better educated, I just happened to receive a letter today from a chairman of the board of a major insurance company that pointed out to me that what I am doing is wrong in trying to educate consumers because when consumers are educated it's going to promote fraud. (Laughter.) I found that extremely interesting.

CHAIRMAN TORRES: Who was this person?

MS. DeLong: Well, should we give his name here? He is from Gyco(?) and his
name is -- he is the chairman of the board -- William Snyder.

CHAIRMAN TORRES: And where does he live?

MS. DeLong: Well, the address on the letterhead is Washington, D.C. but he didn't give me his address and I can't imagine why.

CHAIRMAN TORRES: Lives in a vacuum somewhere.

MS. DeLong: Well, but I think what we have seen over the years is we've seen insurance companies that are using a lot of fluffy language and we have seen trusting consumers that have relied on insurance companies being there for them. And that is something that we need to change and we need to change this mentality that people cannot understand their insurance, because we're not going to be able to educate them until we can resolve that. But if it was in the insurance companies' best interests for us to be informed consumers they would educate us. Instead, they pat us on the head.

And what we're looking for is for you to hear problems from people -- you know, I get the standing ovation and I get the credit here but these people that are in this room are making a difference for what happens for consumers across the nation. So it isn't just these people that are here. These people are speaking for those individuals out there that don't stand a snowball's chance in hell when they're an individual claim. They are run over by this mega industry like a steamroller. And these people have been brave enough to stick in here, to stand the intimidation, to go through the unreasonable requirements, to see their health go down the drain, their family lives ripped apart and these are the real champions and they're the ones that deserve a hand. And they'll tell you the story and I can't tell you how appreciative I am that you're here.

Thank you.

CHAIRMAN TORRES: Thank you very much, Ms. DeLong.

In the short time that we tried to put this hearing together we tried to break it up into issue areas so that we get into the written record so that when we review this and distribute it to other members of the Legislature there is some cohesiveness as to the issues rather than just reading through a transcript which very few people get through. So that when we highlight the issues we're trying to highlight those issues -- and I understand there'll be some carry-over to some areas but we want to go by the agenda to look at the issues separately, because we're not only hearing from you we're looking at just what legislative solutions we need to apply this coming year in January.

Now let's take a look at rebuilding the home and that's one issue that we're going to look at. And George Kehrer, Jim Servais, Robert and Bonnie Bruce, Constance Carlson and Brenda Reed, if you'll all come forward.

When I call your name, just come forward either if you're at the table or to
the podium; that'll be just fine. As long as we get you on the microphone.

Please, Mr. Kehrer.

MR. GEORGE KEHRER: My name is George Kehrer. My home was destroyed in the Oakland Hills fire. As a general contractor I negotiated for several homeowners who lost their homes in the fire to get a fair settlement price for their lost home.

I'm here to give a brief overview of construction issues, but first let me tell you a quick analogy. As a child I played a game called Show And Tell and that game we knew all the rules; information was shared and everyone in the classroom benefited. As a kid I learned that if I made the rules to the game I won. If I found myself not winning I changed the rules. If I played an unfamiliar game I generally lost. I found that many insurance adjusters play a different game. They play Pretend And Not Tell. In this game, rules and information are withheld and systematically changed and often contradicted. The insurance industry alone benefits from this game.

To the dismay of hundreds of us firestorm people we are playing the game Pretend And Not Tell for the first time while the insurance adjusters are polishing their trophies from the last tournament.

First of all, insurance carriers pretend to employ qualified contractors to determine the dollar value of the lost home. Many of these contractors are actually consultants who, in my opinion, have no experience or capacity to construct East Bay hillside homes. They acted as hit men for the insurance companies to low-ball the actual expense of replacement. For example, Allstate's computer analysts were frequently more than $100,000 below actual cost. With this game, without our organization the carriers could have cost firestorm policyholders and the City of Oakland and the State of California and the federal government over $100 million in lost benefits in various FEMA and SBA programs and tax dollars.

Secondly, insurance companies pretend that anything not part of the house is another structure. As a result, policyholders lose other policy benefits. For example, Allstate placed the front steps and porch to the front door as other structures. This pretense amounted to more than $3 million lost in other policy benefits to Allstate policyholders.

Insurance companies also pretend that code upgrades are not part of their promise to provide guaranteed replacement costs. Code upgrade is the only means of offering true guaranteed replacement because no city will issue a certificate of occupancy to a residential dwelling without full code compliance. Without code upgrades the policyholder is left, at best, with a museum piece as a house, a place they can visit but never live in, if built at all. Code upgrade costs
vary depending on the age of the lost home. It can exceed over $100,000 for an older house. My calculations show at least $40 million lost to policyholders from the firestorm.

Additional issues are Title 24 energy conservation requirements and performance bonds which are one of the only ways that you can force the insurance companies to conform to their promise of guaranteed replacement costs.

I urge you, therefore, as lawmakers to check out this Pretend And Not Tell game. I urge you to support the better game Show And Tell so that we all know the rules, so that the rules are not changed in the middle of the game, and so each of us has a chance of winning, not just the insurance companies. Right now, the family who loses their house in Richmond or the couple north in Eureka or south in Bakersfield don't stand a chance with the adjuster, the professional game player. Please help us create an even playing field. There will never be a better time.

CHAIRMAN TORRES: George, what do you mean by adjusters or how do you begin to change that behavior? Do we make the law tougher in terms of who they can use?

MR. KEHRER: I think if you certified adjusters, if they had to pass some kind of state test and be registered with the state and have requirements that are much more definitive than they stand now.

CHAIRMAN TORRES: Depending on terrain, because we already have a Contractors Licensing Board, which doesn't mean anything, but you're talking about a stricter enforcement in terms of expertise for a particular terrain as well, which was the case here.

MR. KEHRER: Right. In Allstate's case they promised us a list of what a scope or line item would look like. We never got one. I mean, if they would abide by their promises, starting from the insurance contract on, it would be a better, more even playing field. We just got a document that said this is what a scope entails, these are the items that are generally lost in the house.

CHAIRMAN TORRES: And in respect to code upgrades, we're talking about city, county, state codes that have been enforced after the home was built, which was the case in many of these instances, and your recommendation would be to waive those code upgrades or require insurance companies to pay for their upgrades?

MR. KEHRER: Code upgrades are mandatory in a lot of states.

CHAIRMAN TORRES: No, I understand that.

MR. KEHRER: Right. I mean, part of the policy that an insurance company cannot issue a policy without allowing code upgrades be a part of that policy.

CHAIRMAN TORRES: And you're saying that in respect to the adjudication of those code upgrades there was some discrepancy by the adjuster.
MR. KEHRER: And by the insurance companies. Absolutely.

ASSEMBLYMEMBER LEE: Senator Torres, can I follow up on that? Could you explain that a little bit more for us with regard to the replacement costs and the code upgrades? Are you saying that the calculations were not appropriate amounts? They weren't calculated in terms of allowing for the appropriate amounts for replacement costs or was totally disregarded?

MR. KEHRER: A policy will state the "as was home" at the time of the loss. Now, an "as was home" that was built in 1920 is not going to have rebar in the foundation, is not going to have dual glazed windows. It's going to have knob and tube wiring. The code has changed tremendously since 1920. So a person who has a policy with a 1920 home has to have code upgrades in order to get a house that they can live in.

ASSEMBLYMEMBER LEE: Right. But with regard to the replacement costs associated with the policy, what are the requirements of that policy with regard to replacement cost? Does the policy say that code upgrades are part of replacement costs?

MR. KEHRER: Well, I'll take Allstate which I'm most familiar with. Allstate has two policies: the deluxe and the deluxe-plus. The deluxe does not allow for code upgrades, the deluxe-plus does. And we found out that the Deluxe-plus, in many instances, was less expensive with the code upgrades than the deluxe policy.

ASSEMBLYMEMBER LEE: So there's no requirement that an insurance company issue a policy with code upgrades as part of the replacement costs. There's no requirement of that.

MR. KEHRER: Right, in this state, at this time, no.

ASSEMBLYMEMBER LEE: Okay. That's what I wanted to find out. Thank you very much.

CHAIRMAN TORRES: So we need to change the law in California to require that.

MR. KEHRER: Yes.

CHAIRMAN TORRES: All right. Solution number one. Jim? Welcome.

MR. JIM SERVAIS: Good afternoon. My name is James Servais. I'm a fire victim. I've settled my insurance and rebuilt my house. I built a number of houses in the area before the fire, I'm building a number of houses again. I've also helped a number of people in various ways in their insurance settlements. I'm going to speak specifically about some of the things State Farm is doing to keep the insurance settlements from being fair, put some of the supplies(?) in a quite broader case.

In the last year we've seen a definite change in how State Farm deals with
their policyholders. I managed to facilitate a number of settlements before that time, and clearly, they're pulling some new things now.

We have hard evidence of the rebuilding cost. I've built a number of houses. I know other contractors that have. This is not a mystery. We know how much it costs to rebuild now. We have those figures. On a limited basis a number of us are willing to share them. So there's no mystery about this. It's not an unknown factor.

CHAIRMAN TORRES: You have the comparables.

MR. SERVAIS: We have comparables. However, especially State Farm is not willing to look at those comparables or what it's actually cost to rebuild.

CHAIRMAN TORRES: And why is that?

MR. SERVAIS: Because it would cost them more money, I presume.

CHAIRMAN TORRES: No, but what is there... (Laughter.) We understand that. What is their statement to you as to why they didn't?

MR. SERVAIS: Ahh. They've developed a panel of alleged experts on rebuilding costs. These are people who generally have not -- well, as far as I know none of them have rebuilt since the fire. Many of them have not ever built in this area. Hillside custom houses are a specialized building process. Unless you have done it, I'm not sure you can have accurate figures in many cases. You simply can't go to one of the standard estimators and estimate many of these houses fairly or accurately. It doesn't work.

CHAIRMAN TORRES: But given the nature of the most serious fires in California usually occur in this terrain, why haven't they come up with adequate comparables, in your opinion, other than the cost factor?

MR. SERVAIS: It's not that simple. You can have two virtually identical houses on uphill sites and if you have no access, no parking, no way to get materials on site, that house can literally cost a third more than the house 50 feet away that has a parking place in front, a way to get the materials on site. There can be huge differences. And the soils and the foundation, you can have two houses 25 feet apart and one requires piers that are 30 feet deep and the other requires piers that are 16 feet deep. The hills can change that radically. So it's not a formula.

CHAIRMAN TORRES: Ms. Lee.

ASSEMBLYMEMBER LEE: Okay, now, let me ask you this then. If, in fact, this panel utilized criteria or certain variables which makes sense for this area, do you think that the panel would come up with an appropriate comparable?

MR. SERVAIS: Oh yes, I think it's double.

ASSEMBLYMEMBER LEE: So you think it's the criteria that the panel is using, not just the panel itself.
MR. SERVAIS: I think it's the criteria.

One of those, and I can't emphasize it enough, is the code update issue. You're not insured if you don't have a code update policy. The difference in cost between building some houses, just the foundations on a pre-1940 house and the foundation we have to do now can be hundreds of thousands of dollars. Without the code updates there's no insurance.

Next we're seeing some blatantly unfair practices. When you fill out the building permit you're given an evaluation of the building permit. They take the square footage you have of the house and they multiply it by a fixed figure. This is done for fee appraisal by the building department. State Farm has taken these numbers and said, well, this is what the permit's for, this must be what we're willing to pay you.

Next, if you go back and ask for more monies because of lumber increases, State Farm has come up and said, okay, well, we now want to review the entire policy; I know there's been a lumber increase but we think there's been changes in sheetrock, etc., etc., so we want to review your entire policy. So as you go through the process you're not allowed to go in for legitimate changes. You're threatened with starting the entire process over again.

The spread in the dollars. One contractor I know built a number of houses in the area. The houses were very similar. Within State Farm, the settlements, depending, I guess, on how people argued or who they were, varied on virtually identical houses from $100 a square foot -- I don't like to use square foot but it's an easy peg here -- to $300 per square foot. They shouldn't be that far apart. There should be more consistency in settlements. Settlements shouldn't be based on your ability to get the settlement but what the loss was, and we're clearly not seeing that.

CHAIRMAN TORRES: Well, how does that jive with what you said earlier and that is that the costs may vary with homes merely 25 feet apart?

MR. SERVAIS: In this case I think there was very, very similar building costs in the original houses. Yes, you're right, you do have to look at that and see if there was a change in location. But we have the original contractor who could very easily say this one was harder, this one was easier, these were very similar. Instead, we're not seeing that. We're seeing huge ups and downs based on the people and their ability to get insurance settlements.

CHAIRMAN TORRES: Was it a common practice or is it a common practice now that many of the homeowners used sometimes the original builder of the home in some cases, in the newer homes?

MR. SERVAIS: I think not. I think the statistics show -- well, when we last looked at some 70 percent of the contractors in the area were from out of
the area. So I don't think we're seeing that.

ASSEMBLYMEMBER LEE: Say that again. Excuse me. What's the percentage?

MR. SERVAIS: When we last looked some 70 percent of the contractors working in the area were not from the immediate area. So you're not seeing...

COUNCILMEMBER JORDAN: But they could have originally been from out of the area as well. I think there has been -- first of all, 30 percent are in the area if that figure is true and I think what has happened quite a bit is if people had their original plans -- that a whole number of people went back to their original plans. But all I'm saying, Jim, is that it's possible that somebody from outside of the area originally did the home and they again went outside the area to redo it.

MR. SERVAIS: Well, of the current contractors of those of us that were working in the area prior to the fire, there may have been 40 of us or 50 of us. We couldn't possibly do all of the rebuilding so there's a sense to there being a lot of people from out of the area.

ASSEMBLYMEMBER LEE: There's a shortage.

MR. SERVAIS: The appraisal process. When you can't get a settlement you go to an appraisal. The appraisal process, as I understood it, wasn't to be a mini-trial, and yet, State Farm specifically conducts many of them by mini-trials, bringing in counsel, cross-drilling the person who's simply trying to get an insurance settlement. It's made into a totally unfair situation for many of the people involved.

We also have a huge problem with the appraiser and umpire for, which I know has been, I believe has been thoroughly contaminated. We have umpires and appraisers that one week represent an insured, one week work for the insurance company. An umpire may be a so called neutral party here and work for the insurance company the week before. I believe this group needs to take a look at how the appraisal process is done. It's clearly no longer a fair system.

ASSEMBLYMEMBER BATES: Could you describe that system for us? I'm sorry, I don't know how that works. In other words, you reach an impasse with your company, then you go to a third party which is the appraisal and that's set forth in the policy?

MR. SERVAIS: It's set forth in the policy -- I'm not a lawyer, I'm a carpenter, but I believe under Civil Code you choose someone to represent you in the appraisal process, the company chooses someone, they agree on an umpire. We had a list of umpires that were used quite a bit and now there's clearly a conflict of interest with those umpires.

CHAIRMAN TORRES: All right. Let's move on.

MR. SERVAIS: In sum, I have to say at least in dealing with -- oh, I'm
sorry, also the broken promises. I reached one settlement -- there was an open area on the foundation. It was my claim there were a number of piers under sections of the foundation. We couldn't determine that until the foundation was ripped out. The agreement was when the foundation was ripped out, if the piers were there they would pay for the additional cost of what was there. When we ripped out the piers they, of course, had forgotten about that agreement. When I put a memo saying that they had agreed to this they sent someone out. He looked at them and said, "Well, if you hadn't done the excavation you could have reused these piers; therefore, they're a code update, therefore we won't pay on them." I think you see this across the board now.

CHAIRMAN TORRES: Thank you very much, Jim.

Robert and Bonnie Bruce.

MR. ROBERT BRUCE: Hi. I'm Robert Bruce. My wife's in the audience. I publish the *East Bay Journal* which was founded as the *Phoenix Journal* two years ago to help people rebuild their lives after the fire.

CHAIRMAN TORRES: Excellent publication. Nick brings it to the Floor regularly.

MR. BRUCE: Thank you. Unfortunately, my own family has been unable to rebuild our home largely because Transamerica Insurance Company has been unwilling to honor its own offer of a settlement. I don't know how many Transamerica policyholders have not settled and I don't know the number that are in litigation or will be going to litigation but I suspect it's a lot greater than the number of six that was reported in June.

Every time I see that new Transamerica commercial that says to "get the power of the pyramid" I get scared to death, wondering where they're going to put that pyramid, because a lot of us who had that insurance company have really been stuck by them. And since the fire this company, Transamerica, which, as you probably know, is one of the nation's largest holding companies, has decided by policy not to sell any more homeowner policies in the fire area. As a matter of fact, they pulled ours and we don't even have course of construction insurance per our original policy. And the irony of this, the reason that Transamerica cites for not selling any more homeowner policies in the fire area, too many costly claims and factors that create a high fire risk area. And this is particularly ironic and sort of funny, too, because there's nothing up there left to burn. And if I were a Transamerica executive I would say this is where I want to sell insurance policies, at least for the next 30 or 40 years until the fuel load regenerates itself up there.

To be more specific about our own claim, my wife and I negotiated in good faith for countless hours with the Transamerica adjuster in the kitchen of our
rented home. When we thought we had a settlement Transamerica failed to send us a proof of loss that we could sign it so that we could honor what we had agreed orally on paper. Meanwhile, city officials and Cal/OSHA officials told us that rebuilding our garage was going to add tens of thousands of dollars to the rebuilding costs. In conversation by telephone and by letter Transamerica agreed to cover part of that additional cost but balked at covering the consultant's fees that we had to pay during that process. And now the company's reneged on the earlier agreement. They've taken the whole thing off the table and we're facing either binding arbitration or a lengthy and costly lawsuit. These things cost us a fortune in time and money and all we as policyholders and homeowners have is a hole in the ground.

Our garage, for instance, was insured for only $16,000. Estimates to replace this structure under Cal/OSHA and Oakland City requirements have ranged from $150,000 up to an astronomical $330,000. We were told we had enough insurance. Now we're going to be faced with an access problem of the sort that Jim Servais alluded to which is probably going to add another $50,000 or $75,000 to the cost of rebuilding because of the dilly-dallying this insurance company's put us through.

My wife and I negotiated in good faith and we really think that Transamerica ought to be able to do the same and so should all the other insurance companies. I mean, they've really got the muscle when the policyholders are virtually powerless.

A physician I know who was a Transamerica client took a $200,000 loss just to get them out of her life, she said, and she says it was worth every penny of it. But how many people can afford that kind of blackmail payment?

We've seen how the insurance companies in California have dealt with Proposition 103, the voice of the people. We can't allow this kind of arrogance to continue. We just wonder how these people sleep at night. The policyholders aren't trying to defraud the insurance companies. We're just asking them to make us whole. And just like George said over there, we're just asking them to give us a level playing field.

I just want to thank personally Insurance Commissioner Garamendi and you, Senator Torres, for having this hearing. Thanks.

CHAIRMAN TORRES: Thank you.

Ms. Carlson.

MS. CONSTANCE CARLSON: Well, I'm from Berkeley and I'm the introspective type and so I have to kind of examine everything I do and everything that's going on. And I've spent two years trying to understand State Farm and the house that I lost and I've come to some conclusions, most of which I won't talk
about. I will talk about my house and I will say that I feel that I'm here not only representing myself but representing anybody who's old and who's single.

CHAIRMAN TORRES: Wait, wait, wait, wait. I was told in Sonoma last week you are chronologically gifted. (Laughter.) Not old, not senior; you're chronologically gifted.

MS. CARLSON: Thank you. Thank you. I'm glad somebody recognizes that.

Anyway, I don't really believe this emotionally but intellectually I know it's probably true. I know Ralph Nader has written a book about it recently about older single women being charged more and having more difficulties in the marketplace. And when it comes to insurance I can't see how any insurance company would discriminate against a nice old lady like me, but I know that this must be true because everywhere I've gone to question people and to talk about what happened up in the hills somebody always knows an older single woman who hasn't been able to settle. And then also it really takes in older single men. And it seems to have something to do with -- the whole thing is a very traumatic experience and it takes a while to realize what's happened to you.

Now, I'm supposed to talk about the code upgrades which is one of the things that's hamstringing me because I had guaranteed replacement but it took me all this while to learn that guaranteed replacement has nothing to do with code upgrades, which means that all I can hope to get, if this is true and I don't believe it's true anymore, all I can hope to get is a theoretical house, which means I'm going to have to live in a theoretical house for the rest of my life. Because if it's in the policy that you have to have your house replaced, then you have to get code upgrades, and it doesn't matter whether State Farm keeps talking about that, that they don't have to give code upgrades, which, as I understand, they do, they have to give code upgrades because it's the law. It's the law in the insurance -- it's on the contract and it's also a requirement of the city. But I think we have to convince State Farm of this.

There is something else that's happened that I'm -- State Farm has told me that since they don't insure the land, they simply insure the house, and, for instance, at the time that we were getting our footings taken away and so forth, I was told by the city that I had to be sure that I had erosion control. So I did. I did the whole bit. I got jute netting and I corseted the steep part of my lot with jute netting, and then when it came to collecting on that I wasn't able to because it was land and that was my responsibility.

Also, code upgrades have to take in retaining walls for you to be able to really build safely. Nothing will be done about the retaining walls, at least so far. Not only that, there's a retaining wall that separates the land from the people on the upgrade and my property and there was a slippage in a rainy
season and on this -- see, I had masonry and it's a masonry retaining wall and then above this there's a four-foot brick chimney. That four-foot brick chimney is still standing there. My masonry has all been removed and it was removed because I was told that when there were fires of over 2,000 degrees that destroys the inner-chemistry of the masonry and you have to haul it away; and yet, that retaining wall is still there and the chimney is still there and I was told I had to hire a lawyer because the city won't do anything about that because the city would -- well, you know, but it's these kinds of things that happens that keep you from rebuilding if you've got any sense because you really need to decide all these issues before you ever start rebuilding and I, at least, knew that.

And I think I'd better let somebody else speak.

CHAIRMAN TORRES: Well, let me tell you, Ms. Carlson, that women and insurance is a real problem in this state. In fact, my staff has been working on it for the last month and we will be having hearings and we'll invite you to them because the discrimination against women in respect to health insurance and what is covered is phenomenal in this state at least. And so we'll let you know when we have those hearings and maybe you'll have the time to come and join us.

Ms. Brenda Reed.

MS. BREND A REED: Good morning. My name is Brenda Reed. I'm a Vietnam widow, mother of two adult children. I earn my living as a professional speaker and writer. In 1972 I purchased my home on Acacia Avenue in Oakland with life insurance proceeds that I received when my late husband Captain James Reed was killed in Vietnam.

My experience of my insurance carrier, Safeco, has been fairly positive. So much so, in fact, that I appeared on the cover of their agent magazine and in their annual report. I even painted "Thank You, Safeco" on my garage door. And I began to rebuild and I expected to be back in my home of March of this year.

In June the builder of my home, W. J. Gilmartin Construction of Burlingame, abandoned my project. He left me with $284,000 worth of damage and unfinished work and $144,000 in unpaid bills. There are approximately $70,000 in mechanics liens on my property. One subcontractor is now suing to foreclose. I have incurred over $60,000 in legal fees as of this date and my legal issues have not been resolved as of this morning. I am now in litigation with four insurance carriers, with this builder and with Home Savings of America. I am involved in an investigation of Gilmartin Construction being conducted through Special Investigations with the State Contractors Licensing Board. I am now faced with the prospect that I could lose my home yet again, along with my remaining financial assets. My home is not completed, it is subject to ongoing damage.
with the ensuing winter rains and my damages will continue to escalate unless these matters are immediately resolved with the numerous insurance carriers involved in this situation.

In June Safeco informed me that they were no longer going to pay me loss of use proceeds even though they had promised to stand behind me on numerous occasions. My adjuster informed me at that time that they had paid all they felt they were required to pay under the terms of the policy. We are now in renegotiations to resolve our differences.

I am especially concerned because I felt pressured to settle my claim within 32 days. Yes, 32 days of the firestorm. This was a time when I was in deep grief about the loss of my most valued and treasured possessions: the only mementos I had of my late husband and the home where I had lived for 19 years. It is unrealistic to think that a full scope and working knowledge of what is required to rebuild could have been attained at a time when I was barely coping and trying to satisfy my most basic living requirements.

The issue of paramount concern to me and others in this room is the true meaning of guaranteed replacement. In my mind, in order to guarantee replacement of the home and ensure that I would be restored to my home and lifestyle, it is necessary to obtain a performance or completion bond on the builder. As I had never built a home nor lost a home in a major disaster I was not familiar with the need for this. My insurance adjuster did not allow any insurance settlement to pay for a performance bond to ensure that my home would be completed, nor if there was an unforeseen problem with the builder that I would not lose my home yet again due to a financial disaster. Because I did not have a performance bond and also because Safeco Insurance did not see fit to pay for one or to even tell me about the need for one, I may very well lose my home before I even get to move back into it. Safeco states that it is not customary to have a completion bond on a residential property. My settlement was in excess of half a million dollars. How can this be?

My attorneys and I have been in negotiations with Safeco since May on these issues. We are also in negotiations with Home Savings of America whose insurance trust account department released the funds from my insurance trust account without fulfilling their fiduciary responsibilities.

Likewise, the builder’s insurance carriers who are Scottsdale Insurance Company, Jefferson Insurance Company, Monticello Insurance Company, and Indemnity Company of California have failed to honor my insurance claims filed against them in July of this year. It appears that each of these entities wants to prolong this process until all of my financial resources are gone and they can bring me to my knees.
This is yet another firestorm in my life. It is long since the time when I was to be back in my home. My life is topsy-turvy. I have not performed any substantial work since the fire. I am under medical care due to the stress of these situations. My financial resources are depleted. I want to be back in my home and have my life restored. I want to have this firestorm put out and ended once and for all, to have Safeco, Scottsdale, Jefferson Insurance, and Indemnity Company of California and Home Savings of America do what is right and settle these issues with me in a forthright and expedient manner.

To Safeco, and if there is a Safeco adjuster here I'd like to know. Would you please stand so I can see you? Afraid, huh? To Safeco I would like to say publicly that surprisingly enough, I am deeply grateful for everything that you've done for me to date. I need you to continue to stand behind me with integrity and forthrightness and support me in the same manner that I have supported you in this community and throughout the nation. I need you to continue to provide for me that which was not provided with a performance bond and get me back into my home. Pay off these subcontractors and suppliers and compensate me for my loss of use and legal fees. I need your help now more than ever and I assure you that I shall continue to speak highly of your organization in this community and throughout the country. The fact is, time has run out. The wolves are barking at my heels. I pray for resolution before this day is over.

And to this honorable committee, Senator Torres, and to Mr. Garamendi, I would like to thank you for your tremendous work on behalf of our community. I beseech you to enact legislation which clearly defines the meaning of guaranteed replacement and to require that these insurers cover their clients through the entire rebuilding process by providing for performance bonds, particularly when a home that has a substantial economic value is completely destroyed.

In regards to liability carriers who are not registered in the State of California, I beseech you to take measures to force them to deal with people like myself in good faith and to keep them out of this state if they cannot deal with integrity in our community.

Thank you for allowing me to speak today.

CHAIRMAN TORRES: Ms. Reed, you said you haven't done any substantive work since the fire.

MS. REED: That's correct.

CHAIRMAN TORRES: I think you just completed a very substantive statement and performance before this committee and you should be proud of yourself for the courage that you've shown throughout this process.

MS. REED: Thank you.
CHAIRMAN TORRES: Thank you, panelists.

We now want to move to the second area and that's relocation to another site. We'd like to have the following people please come forward. Betty Ann Bruno, Clara Ree, Chris O'Connell, and Craig Scheiner.

MS. BETTY ANN BRUNO: Well, you've heard horror stories about the problems of...

CHAIRMAN TORRES: Would you identify yourself for the transcript?

MS. BRUNO: My name is Betty Ann Bruno. I lost my home in the firestorm. You'll hear our story from my husband, Craig Scheiner, a little later on. I'm here just to introduce this panel. This is on the topic of replacing the home by buying another one.

Right after the fire several people who were burned out moved away. There were a lot of reasons for that. Maybe they were too advanced in years to want to go through the construction process. It was too painful for some people to try to return to the hillside. That happened initially but since then many people who wanted to rebuild have now decided they cannot go through it because it takes too long to go through insurance hell and get the settlement and then go through the whole process of building your house. So more people are moving away because of insurance problems.

I would like to tell you the story that's attached to one woman who does not have the emotional strength to be here to tell you herself. She has asked me to relay her story to you. She is completely shattered by what's happened to her.

The thing about moving away is you can arrive at the amount of money that your insurance policy is worth, your benefits. You take this price tag and you go shopping for a home. There are many homes you can buy with that amount of money but the hook is, and this is the booby trap in replacing, is that you have to buy the land under your new home out of your own pocket. The insurance proceeds cannot be used for the land. So the insurance companies play the game of boost the price of the land under your new home by whatever means possible and run down the value of the home.

Here's what happened to this woman.

She got a settlement of $320,000 to buy a home. That's not a bad figure. She found lots of homes for sale for that, but when they separated out the value of the land she could not afford to buy the land. Her insurance adjuster, and I am not at liberty to reveal either her name or her company's name at this point, her insurance adjuster advised her to buy a condominium. Minimal land costs. Good idea, yes. This person went out, did a lot of shopping, found a condominium she was crazy about. It was in a very good neighborhood near the Rose Garden over here in Oakland. She was very excited about it, she thought...
she could finally get on with her life.

Her company sent an appraiser out and the appraiser filed a report that said that land -- that appraised that land at its highest and best commercial use, not as a condominium of five units of residence but as a high office tower. It drove the value of the land under that condominium to about half the total price. She could not afford to do it. It meant that land was worth more than the land under the houses she had been looking at.

She was devastated. She was so distraught by this, and in addition to that she's in the middle of a very unpleasant divorce proceeding, she went out and she made a bad decision. She bought the next house that came along. It was on land she could afford but it's in a bad neighborhood. Before she moved into it, while she was remodeling it, she found out it had been broken into five times. She's afraid to move into it. She still has not moved into it. She asked her insurance company if she could buy a security system. They said, No, you didn't have a security system in your old house; your insurance doesn't cover a security system for your new house. She said, But I had an in-wall vacuum system, it costs about the same thing; let's do a trade. No, we can't do that.

So she bought a security system out of her furniture money. She has juggled money. She is about to move in. She hopes to move in -- she doesn't hope to move in, she doesn't want to move in. She's scared to death. She's bought a couple of dogs. She thinks maybe that will warn her about the next time somebody tries to break into her window.

But it's a mess. Her life is a mess. She can't go on. I've talked to her several times on the phone. Yesterday was the last time I talked to her. She could barely get through her story.

It's an outrage what people go through. And I don't know what can be done for her but I think the pattern of insurance adjusters promising one thing, hinting at one kind of settlement, at one kind of thing that you can obtain a benefit and then pulling the rug out from under you is all too common. I think you're going to hear some more stories from our panel.

CHAIRMAN TORRES: In your dealings with the insurance policies, and probably all of you are more expert than I could ever hope to be because I haven't gone through this tragedy and, God willing, I won't, but when you went through it, do any of the policies that you've run into with consumers also provide for some type of psychological counseling, emotional counseling? (Laughter.)

MS. BRUNO: No, but maybe we should all buy a rider for that. We've all needed it.

CHAIRMAN TORRES: I know all health care provides it but I want to make that point because it may seem obvious to the casual listener but people need to be
aware that these tragedies involve emotional trauma far in excess of the economic loss over a lifetime.

MS. BRUNO: Senator, right after the fire the county and the city did provide mental health and counseling for any fire survivor who needed it and there was a good deal of that and a lot of us needed it. But I think your point is well taken. Maybe there should be some counseling for recovering from the insurance storm.

CHAIRMAN TORRES: And also some counseling in dealing with adjusters and insurance companies.

COUNCILMEMBER JORDAN: I think the point that Brenda Reed made demonstrates the need for counseling right after in terms of protection and coming to a conclusion too quickly, and I think that Ms. Reed's experience was a common experience for a whole number of people who were very anxious to get this thing taken care of and move back into their homes. And I know that for a whole number of those cases they've been aborted for one reason or another.

So I think that yes, we do need psychological counseling but I think one of the best protections for future trauma is some way of providing counseling about how to deal with the insurance company. Because as Mr. Servais said, it really depends. Maybe you have legal training or maybe you have a friend who's a lawyer, but you can't count on that. And for many people who entered into early agreements very trustingly they are now having major repercussions. And I think if it's possible at the legislative level to take a look at this business of time and counseling right up front, right after a disaster about what to look for and what are the warning points, that would be really useful.

MS. BRUNO: But one thing that would help is if the insurance companies were honest in their dealings with their people.

CHAIRMAN TORRES: I just want to follow up on the Councilmember's suggestion. I am toying with the idea because it's a very consistent pattern in the earthquakes in Southern California and the tours that I made of the earthquake in Ferndale up there as well as Loma Prieta during that time as well. I'm working on legislation right now that perhaps we need to create a solicitor's office within the Department of Insurance so that people don't have to spend $60,000 to hire a lawyer to take care of their rights, that there ought to be a solicitor that comes into these emergency situations, gets on the ground quickly and talks to Ms. Reed so she doesn't make an early settlement and has the counseling available there. I think that would save everybody a bundle of money, but more than that, just provide some protection because the single, chronologically gifted woman who is alone is in a precarious position enough, but anybody going through the trauma of what's going on is in a precarious
COUNCILMEMBER JORDAN: May I suggest Ina DeLong come in and consult with you on establishing that?

CHAIRMAN TORRES: Oh sure, yeah.

ASSEMBLYMEMBER BATES: Betty Ann, I'm confused by -- I've heard the problems of people wanting to take their money from their insurance policy and applying it to a new purchase and finding the amount is reduced because they're not going to reconstruct, but I've not heard this issue about the land being deducted. Is that in one policy or is that a standard practice?

MS. BRUNO: That's a fairly standard practice. Now, some companies did relax that requirement and they said here's the money we owe you, this is the insurance you have bought, here's your check, have a nice life.

CHAIRMAN TORRES: Ms. Lee.

ASSEMBLYMEMBER LEE: I'd like a follow-up question. If that's the standard practice, is that stated clearly on the policy?

MS. BRUNO: It's one of those things you find out when you're in the middle of it.

Thank you very much.

CHAIRMAN TORRES: Thank you very much, Ms. Bruno.

Ms. Ree?

MS. CLARA REE: My name is Clara Ree. We are insured by Amica Mutual Insurance Company. My insurance company is spelled A-M-I-C-A.

I'm here to tell you about Amica's misrepresentation and the tactics they have used to delay and stop our purchase of a home.

One year ago we settled with Amica Insurance Company on the replacement cost of our old home. Soon afterward my husband suffered a heart attack and had quintuple bypass surgery. As a result, last March we asked Amica to let us buy a house instead of rebuilding with the amount of our settlement. Amica approved. We looked at houses for five months. During this time we kept Amica informed about our efforts. We also sent brochures and photos, addresses and the descriptions of potential houses. Amica never opposed any of them.

We finally had one offer accepted in August. It was at this point that Amica decided to tell us for the first time that they do not pay any amount towards the purchase of a home beyond the actual cash value of our settlement, which, in our case, is less than a half of what they had previously agreed to pay. Amica was aware of this house by our letter and the brochures five months before they refused it. Moreover, according to Amica, this house was in a better neighborhood and the lot was too big. Amica, if there's anybody out there, we are not asking you to approve the lot or location. We are only asking
you to replace our home. Our old home not only was located in a very stylish neighborhood but it was also of architectural significance, built by the late Maury Diggs.

Amica misled us for six months. There were many points when Amica should have told us their true position since Amica never intended to let us buy a house. To add an insult to injury, Amica is now refusing to pay our additional living expenses until we rebuild. Clearly, Amica is taking advantage of our need for a replacement home to cut their obligation to us. Their misrepresentation and the delay tactics are both suspicious and unethical.

Members of the committee, I ask you to challenge such an outrageous behavior in what has been a very long ordeal.

Thank you.

CHAIRMAN TORRES: Thank you very much, Ms. Ree.

And you are speaking on behalf of Ms. O'Connell, is that correct?

MS. MARGE GIBSON HASKELL: I will be speaking for Ms. O'Connell.

Mr. Chairman, if I may take a moment before I speak for Ms. O'Connell, there was an ambiguity I'd like to address in terms of code upgrade just a little earlier which is that...

CHAIRMAN TORRES: Could you identify yourself for the record?

MS. HASKELL: I'm Marge Gibson Haskell. I'm former city councilmember of City of Oakland and I'm speaking for Chris O'Connell.

On code upgrade, a number of years ago State Farm received an unfortunate court decision -- unfortunate for policyholders; that is which said that they were not responsible for having to pay code upgrade as part of replacement cost. It is an easy shot for this committee to reverse that court decision and make it clear that replacement cost does include code upgrade and that would then give integrity back to the various state codes requiring energy conservation, earthquake safety, and for that matter, all the new city building codes. Without that change much of the code is going to be very difficult to enforce. It's an easy one for the committee and I'm sure your legal counsel can help you with that.

CHAIRMAN TORRES: No, it's not going to be easy and we're going to need your help up there battling the insurance company lobbyists to make sure that we do get it done. It's easy to introduce, it's real tough to pass; but with your help I think it's possible.

MS. HASKELL: Sir, Nick Petris and I worked very hard to develop the disclosure legislation, as you know, and if I can help in this area again I would step forward.

I'd like to read Ms. O'Connell's statement. I'd like to state the reason
she's not here is that she's imminently about to have a baby and her husband, frankly, can't take any more time off from work.

I'll read the statement now.

"After deciding that we had to move forward with our lives, we purchased a home in Moraga in September 1992 which needed additional construction work. At the time of the purchase we had both recorded a conversation and a written letter from State Farm stating that in order to receive the remaining funds for this construction all we had to have was a signed contract from our contractor."

And that construction was within the amount that had been estimated for their replacement costs, I understand.

"In November '92 we received another letter from Jack Dixon of State Farm changing the guidelines to a signed contract, a building permit and start of actual construction. After speaking with Mr. Dixon and pointing at the discrepancy he said our original contract would be honored. However, he then reneged on that statement and insisted on new guidelines.

"While we are not saying the new guidelines are out of line, we have repeated again and again that our greatest fear is that if we give in to this guideline change it could easily be changed again at State Farm's whim.

"Although they have said now they will advance some funds toward down payment on construction that wasn't the original agreement. State Farm has never given us any reason to trust them and we feel our fears are well founded.

"It would seem the purchase of a house shows commitment on the part of the policyholder in the same way as another policyholder shows commitment by rebuilding. As we already have a foundation as well as an entire house, we've already exceeded the requirements imposed on those rebuilding and who have received their remaining benefits. Shouldn't the purchase of a house be enough to entitle the policyholders to the full dwelling benefit that was already established? We know of other companies that paid full dwelling benefits once the figure was determined which closed the claim and allowed the policyholder to match their own funds and get on with their lives. It seems these companies realize the devastation of this firestorm both in a material and emotional way and have the compassion to finalize the claim in a fair and expedient manner so that their policyholders can move forward with their lives. Why can't State Farm come to the party?

"We find that we can no longer devote the hours and hours of time required to fight State Farm. It frustrates us to give in but our four year old has heard so much about insurance we just can't take any more out of his childhood. We will not do that to him anymore nor will we subject our new baby to the same punishment. We have not only permanently lost our home and our memories but
also two years of his precious life. Perhaps our biggest loss in all of this was the damage we have suffered at the hands of State Farm. To a certain extent we can replace our possessions but we can never replace time lost with each other.

"John and Christine O'Connell, State Farm policyholders."

CHAIRMAN TORRES: Thank you.

Ms. Ree, how is your husband now?

MS. REE: He's still taking a stress reducing medication and also special medication. It's extremely difficult for us to rebuild.

CHAIRMAN TORRES: All right. Thank you very much for being here today.

Mr. Scheiner.

MR. CRAIG SCHEINER: I want to thank you, Senator Torres, members of the committee, for allowing us this opportunity to speak. My name is Craig Scheiner. Betty Ann is my wife. We lost our home and everything in it in the firestorm.

I want to talk a little bit about the structure/land situation with our insurance company, State Farm. We feel that we're being held hostage over this issue and I have submitted a letter to the Sergeant-at-Arms to distribute to you with the actual details of what I'm talking about here.

CHAIRMAN TORRES: Thank you. We'll make that a part of the official record.

MR. SCHEINER: Thank you. We reached agreement with State Farm in April of 1992 for the full replacement value of the structure that burned. We decided to replace rather than rebuild. We knew that the structure money, or at least we had learned by then that the structure money was intended to replace the structure but not to pay for the land underneath the structure. But our State Farm agent had told us that we could use the value of the land under our burned home as the figure for the value under land for any other home that we found to replace our burned home. He told us that that would satisfy the paperwork requirement for State Farm.

To clarify Assemblywoman Lee's question a little earlier, apparently it doesn't really matter what the actual value is. It's a little thing just to balance their paperwork requirements.

Based on our agent's word we went out, we found a house, we made an offer, we went into escrow and we deposited $20,000 of our own money as good faith money. Our adjuster told us that if we would spend $90,000 of our own money on remodeling and repairs of the new house State Farm would release all of the replacement value money to close escrow. Betty Ann and I thought that was fair. We agreed to it, we had an agreement with State Farm. We were ecstatic, we were
happy, we were going to be able to begin the healing process finally.

But almost immediately State Farm broke our agreement by refusing to honor that agreement and by making many new demands one after the other. We believe the purpose was to delay enough so escrow would fall through and somewhere down the line State Farm would end up paying us less than the agreed upon replacement value. They did this by waiting until we met the first demand and then made a second demand and on and on and on so we could not meet these demands all at once. This was while we were in escrow. We had a 30-day escrow. We're now more than a week, about a week and a half into escrow at least.

They made demands that were not possible for us to meet under the law such as requiring us to get a building permit from the city for a property we did not yet own. They unilaterally raised the amount we would have to spend out of our own pockets for remodeling and repairs from the $90,000 we agreed to and felt was fair to over $200,000, and they insisted that we spend all this money and do the remodeling within one year.

First they wanted estimates. We got them estimates. Then they wanted signed contracts. We got the signed contracts. They said they could care less that we had an agreement with them. Everything they demanded was done in an arrogant manner on a take-it-or-leave-it basis.

Betty Ann's and my joy became despair. Time was running out on the escrow. These unilateral demands were a crushing burden to us. State Farm would not relent. We felt betrayed and we felt beaten. We were willing to do almost anything to prevent ourselves from losing a second home.

With escrow closing in less than one week we had no time to get other financing. We stood to lose our $20,000 deposit. We hired a lawyer. The lawyer got State Farm to release the escrow money within 30 minutes of close of escrow so we could buy the home but they would not relent on the other demands.

More than a year has passed now since we closed escrow. We love our new house but we have not been able to do all the remodeling and spend all this money that State Farm had demanded of us. We don't understand how insureds like us can be held accountable for agreements we make when the insurance companies themselves are not held accountable or at least feel that they are not held accountable.

We don't know yet what the future holds for us on this issue but we ask that you introduce legislation that would prevent disaster victims from being subjected to the same kind of abuse that Betty Ann and I have suffered.

I want to thank you very much, Assemblyman Bates, Senator Torres, and Barbara Lee, I want to thank you. We're aware of the help you've given us over the last few years.
Chairman Torres: Thank you very much, Craig.

Our next issue area is contents replacement. Howard Matis, Charles Lutner, Cherie Wetzel.

MR. HOWARD MATIS: Hello. My name is Howard Matis. We will talk to you about the problems that we've had with personal property. Personal property are items such as clothes and furniture and they're treated completely different than your house. For instance, you get code upgrades when you replace a bicycle, and no one in State Farm has ever explained that.

To receive the full amount due to you some companies require inventories. They demand documentation which was lost in the fire. I personally lost everything. They appreciated the lost contents to a ridiculous small amount. They want receipts for everything replaced, including they want receipts for underwear.

I would tell you a story that I know best.

Chairman Torres: Well, what do you tell them when everything's been burned? Where do they expect the receipts to be housed?

MR. MATIS: Yeah. That's what I asked. What they did for me is they wanted complete access to my checking account and my credit cards so they can go in there and look. But I don't see what they're going to find there. I mean, this is incredible.

I will tell you my story which I know best. So many people's stories are so similar that I can go up to a stranger and tell him his insurance problems. I mean, it's completely generic.

Imagine losing every personal item. Imagine your children's school burning down. Imagine almost dying and maybe thinking your wife is -- for eight hours I thought my wife and son died in the fire. Imagine trying to find a new place to live. There are no homes and your children want to be near their friends. Imagine trying to find a full-time job. Imagine trying to raise two children and rebuild your lives. It took me more than a year and thousands of dollars of my own money to reach this preliminary agreement for replacement of my dwelling. During that time I worked past midnight on my insurance and then spending weekends getting documentation of my old house and missing my children's baseball and soccer games. It meant my wife and I rushing from dinner and leaving my children home alone. It meant my wife being forced to quite her part-time job. It meant knowing that soon State Farm would cut off my living expenses, which they will in a few days.

Filling out an inventory which State Farm required was a nightmare. It dredged up memories of treasures that I lost. My photos, trophies, items that I had planned to give to my children when they grew up. It felt like having the
scab of a life threatening wound break open. You know, would you do this horrendous task? Many people didn’t, it was such a horrible thing.

It meant trying to remember thousands of items which I had bought. In fact, I just ****** my list which I gave to State Farm because I have this list over here. You can see how small the type is.

During the time, I knew that State Farm had a deadline for this inventory for personal property of January 1, 1993, so we can’t enjoy New Year’s. I asked for an extension of time; it was denied. I worked many nights, two in the morning. I missed many Christmas activities. During this time I was forced to move my household. I didn’t have time for this. Finally, on December 23rd I had to stop even though I was not finished. Our family was to go on vacation. I said enough was enough, why don’t we just forget the insurance and send in what I did.

I appealed to the president of State Farm for an extension so I can put in some more things I didn’t have enough time. Of course he denied it.

Afterwards I had to do pointless paperwork and received inventories with many errors. I still have not received a final inventory. And what I got is an inventory like this which has errors, omissions, completely a different format. I asked for a computer generated list so at least I can merge it with my list to check their errors. They won’t do it. You know, for instance, they could have given me a computer copy. If they gave me a computer disk head I could have filled it in and we could have had an easy way to do the errors. But the way they do it is they make me spend this time checking.

I have spoken to many people who could not do this daunting task. I have spoken to several people who have submitted the list a few days late. State Farm would not accept it. State Farm would not extend the deadline to a woman who’s expecting a baby in December. She could not submit a personal property inventory. So many people have similar experiences.

After submitting this list policyholders have found many problems. As I said before, State Farm wanted access to my checking and credit card records. Many people spent months trying to get requested documentations while they’re trying to rebuild their lives. I know a single woman who was required to document why she had men’s clothes in her closet, and the reason was is that the man was her son! I mean, why do they intimidate people? And this is what they do is that State Farm will make intimidations. They’ll look at property and make you look like you’re guilty, like you’re trying to defraud them while they’re the one who’s doing that.

Recently State Farm has finally changed the policy on getting receipts, thanks to the Department of Insurance. But the procedure’s too time consuming
and brings back so many sad memories. State Farm should just give us a lump sum personal property settlement and let us try to resume our normal lives. We're tired of sending them documentation that they require but never read. Their tactics are very easy to understand: discourage people from making claims and get more interest. Delay, delay.

CHAIRMAN TORRES: How do you know they never read the documents?

MR. MATIS: Oh, because I get letters back and they don't mention it. For instance, they tried to have an examination under oath, which someone here has done, and they wanted us to analyze it. As soon as I sent it they forgot it in the next letter. Didn't even bother doing it. And it's happened several times that I've gotten letters where they don't remember what's in the file and the documentation I've done.

We have complained and have been found to be justified by the State Insurance Commission [sic]. However, the State Insurance Commission lacks power and resources to force the insurance companies to follow its recommendations. I submitted a complaint, the state insurance company said I was justified but nothing's happened because they can't do anything.

A year after the fire my son said to me, "Dad, pay some attention to me. You're acting like the fire ruined our lives." What he actually meant was that we were all alive, we all had our health, we had a roof over our heads; was it really worth it to spend so much time trying to collect what is owed us from the insurance company? He could be right.

In conclusion, we have been subjected to undocumented, arbitrary and changing rules. The State of California must protect its citizens from such abuse. You, our elected representatives, are our only hope. If nothing changes what will happen to California in the next disaster? What will happen to a citizen when her house burns alone?

CHAIRMAN TORRES: Thank you.

ASSEMBLYMEMBER LEE: What you're saying really is there's really no line between the insurance company's attempt to prevent fraudulent claims and one's invasion of privacy.

MR. MATIS: That's true.

ASSEMBLYMEMBER LEE: And you may not have this today but if you have any ideas on how that could be addressed I'd be happy to look at that, because I think you raise some very serious constitutional problems here that I don't think we've really addressed.

MR. MATIS: Well, I think it's easy. Most people are honest and why should they suspect us of fraud? I mean, one of the problems is that arson is a terrible crime in California and I think your committee has addressed --
address it. But no one here did arson! This fire's not an arson fire. I mean, we have hundreds of thousands of people. Not everyone burned their house down. It was something out of our control, so there's no suspect of arson.

**ASSEMBLYMEMBER LEE:** So you're saying there could be special circumstances when perhaps this intrusion into one's private life could be warranted but in many circumstances, or those such as the firestorm, that would wouldn't warrant this type of investigation.

**MR. MATIS:** That's correct.

**ASSEMBLYMEMBER BATES:** Well, how did the Insurance Commissioner resolve that? You said that the Insurance Commissioner was able to -- will you tell us how?

**MR. MATIS:** Excuse me?

**ASSEMBLYMEMBER BATES:** You indicated in your testimony that the Insurance Commissioner was able to alleviate the need for those receipts.

**MR. MATIS:** Oh. What we did is we -- several representatives had a meeting with Gary Hernandez of the Insurance Commission [sic] and some State Farm and we discussed some of the policies, some of the problems. And what they did is they claimed to change the policy. I still haven't gotten back my receipt. It's been six weeks and they still haven't gotten back my personal property claim. They did actually something very nice is that State Farm originally would, in a few days, would prevent us from giving -- originally State Farm wanted us to replace all personal property in three or four days, which is absurd because most people aren't in their house. Well, during that session with the Department of Insurance, State Farm agreed to extend it one more year, so we have one more year to replace our personal property. However, so many people heard about that you had to replace your personal property so early that they didn't even bother filling out these inventories because they said why bother because they knew they couldn't do it.

**ASSEMBLYMEMBER LEE:** One more question. So then insurance companies can do this on a case-by-case basis, is that what you're saying? If they want to, such as in your case.

**MR. MATIS:** In this case it's general but they keep changing the rules. What they do is they make these policies, at the time looks like you can't do it. Sometimes they have made it a little more easier for us to collect, which they did in that case. However, when they keep changing the rules, I mean, why don't they just do it at the beginning of the time? Why do we have to spend two years after the fire and still have all these representatives over here? I mean, State Farm lawyers who are here are getting paid for this. I'm not getting paid. I'm taking a day off. Why do I have this headache?
CHAIRMAN TORRES: Mr. Lutner.

MR. CHARLES LUTNER: Yes, my name is Charles Lutner and what interests me about the last testimony, I have never met Mr. Matis before and his story is almost page-by-page similar to ours.

CHAIRMAN TORRES: So he's not psychic?

MR. LUTNER: We have a large personal property claim, and I want to say right off the start that I do not object to Allstate asking us questions about our claim. I feel that was proper for them to do. It is the procedure and the manners that they used in asking these questions about the claim that I am most disturbed about.

For about the first ten months after the claim they essentially ignored us. Since we persisted they finally said, Well, we will pay some people something over property limits; let us see your personal property list, a complete detailed list. We handed it in one day later. A week or so later we talked to the adjuster about this claim. He had gone over it. He said that our values were pretty good on that, that we should sit down for a settlement agreement. We thought we would have an agreement very closely.

But then we were ordered to take an examination under oath. An examination under oath, I'm sure that you're familiar with, is a legal procedure that is very intimidating to go through. After they had examined or interrogated me for one day they made us an offer on a personal property claim. That offer was for half of what we were claiming. If we did not accept that offer they said they would then bring in my wife and start interrogating her. I feel this is unfair tactics, negotiating tactics that Allstate uses. Other people have gone through this process also. We have a friend that was ordered to take an examination under oath. During the examination Allstate's attorney would go off the record, he would then make this person an offer. That person would reject it and then the attorney would go back on the record and start interrogating them some more.

CHAIRMAN TORRES: These are citizens that are brought in to an insurance office and placed under oath and a deposition which is recorded.

MR. LUTNER: Yes.

CHAIRMAN TORRES: And asked questions by the insurance company lawyer. Were you allowed to bring in your own counsel?

MR. LUTNER: It forced us to hire an attorney, yes. Up until that point we had told Allstate we did not want to bring any legal representation or anything but since they ordered the examination, yes, we had to hire an attorney to represent us.

It seems to be pattern and practice for them to negotiate that way.

CHAIRMAN TORRES: That's not negotiation, that is intimidation covered under
the Geneva accord to prisoners of war.

MR. LUTNER: The insurance contract is the only contract that I know of that permits these sorts of powers for the issuing of insurance.

CHAIRMAN TORRES: Which, of course, you signed not really knowing what you're signing at the time you gain your policy.

MR. LUTNER: Exactly.

CHAIRMAN TORRES: Well, I'm covered by Allstate so I'm going to check the policy.

MR. LUTNER: Good. I understand that the insurance company says that we must have examinations under oath, we must have that power so that we can find out the truth.

CHAIRMAN TORRES: All right, then I will so order the insurance company representatives to testify, at least from Allstate, under oath before this committee.

MR. LUTNER: Thank you.

My feeling about the examination under oath is that Allstate or an insurance company should collect all of the facts and then pay the claim or make an offer then, not negotiating whilst you are under intimidation, or taking these examinations under oath.

What is ironic, or I'm not sure ironic, maybe perhaps sad is that in both cases my friend was required to take an examination under oath because of an insurance company mistake. The mistake, it turns out, is that the insurance agent that sold him the policy evidently photographed the wrong house. He photographed his neighbor's house and they evidently thought that he was putting in a fraudulent claim. Did they come to him immediately and say, gee, these photographs don't match with your plans? No. Way into the examination under oath it is finally inferred, they can finally find out off the record that this was the case.

In our case, Allstate had done a volume analysis of our personal property. They said, among other things, that items that we claimed were in our linen closet could not possibly fit in our linen closet. I said I'd be glad to build a model of the linen closet and show that they would fit. They said no, that wouldn't be necessary. Well, I did not take their advice. I did build a model of the linen closet. I stocked it with all of our linens in it. Needless to say, everything fit in the closet with room to spare. Did Allstate say oh, I'm sorry, and pay the claim? No.

I can also understand a small error by their so called expert. Their expert was in error by 400 percent. Four hundred percent. We could have had four linen closets. But because of their mistake, evidently early on, we were
dragged through this process and we still are in the process of trying to settle our claim.

One of the most recent things that they have added to this is a request or demand to a confidentiality agreement. I believe that this is unfair in most cases. It takes a lot of courage for people to speak out against an insurance agent when you are negotiating with that agent or with that company. But if everybody is required to sign a settlement agreement that includes confidentiality, then you can't talk about it afterwards either. If they are required to find out the truth about policies and policyholders and the claims to make sure that fraudulent claims don't occur and they have examinations under oath, then why do they require settlement agreements that provide for confidentiality?

Thank you.

ASSEMBLYMEMBER LEE: Mr. Chairman, what really bothers me about all of this is that there's a presumption of guilt and criminal activity upfront and I thought in this country that you're innocent until proven guilty, and I would think that we need to somehow address some basic fundamental operating procedures based on those principles at some point because this is mind-boggling. You know, in terms of just the basis upon which people are dealt with.

MR. LUTNER: Especially when people are undergoing a lot of mental stress in the first place. It is extremely intimidating, and to the insurance company they're operating from a bunker mentality saying that you are guilty, now prove yourself innocent.

ASSEMBLYMEMBER LEE: Right, and that's wrong.

MR. LUTNER: Thank you.

CHAIRMAN TORRES: Ms. Wetzel. Welcome to the committee.

MS. CHERIE WETZEL: Thank you, Senator Torres, and other people on the panel, and Ina DeLong and Betty Ann Bruno for making this all possible.

I'm Cherie Wetzel and I lost my home in the Oakland firestorm. My insurance carrier is Oregon Mutual Insurance Company. They were at the time of the fire and they have been for 35 years.

CHAIRMAN TORRES: The insurance company again, Ms. Wetzel?

MS. WETZEL: Oregon Mutual Insurance Company. Oregon Mutual Insurance Company has their headquarters in McMinnville, Oregon. It is a small out-of-state company. As per rating institutions it does have a very good financial rating. But as many small carriers do, they carry reinsurance. Oregon Mutual's board of directors apparently establishes their policy and philosophy but in a major loss like the firestorm the reinsurer makes the
decisions. In this case, Oregon Mutual's reinsurance company is a foreign company.

Oregon Mutual, immediately after the fire, sent letters to most of their insureds, and they only had ten losses in the Oakland firestorm, that expressed great sympathy and the fact that they would do everything possible to restore us to the position we were in before the fire. But that did not happen.

Now, Oregon Mutual offers guaranteed replacement cost endorsements on the structure. Most of Oregon Mutual's insureds did have guaranteed replacement cost. Oregon Mutual's guaranteed replacement cost endorsement does not include code upgrades. They do not offer code upgrades. As far as I know, even today they do not but they were not available in 1991 or 1992.

The face value of our policy was determined by Oregon Mutual's underwriting guidelines. They established, using their guidelines, and I have their whole procedure here -- I'll hand it in to you after I am finished -- they established the face value of our property somewhat less than we actually insured it for because we were in the process of doing a remodeling and wanted that covered, too. But the face value on our policy, at the time of the fire, was $206,000. This was established with Oregon Mutual's guidelines. Once the fire occurred, Oregon Mutual hired their experts to determine the market value, which was established at $335,000 by their experts, and the replacement cost at $479,000. We were obviously very under-insured using their guidelines, but we were over-insured -- I mean, we were actually under-insured but using their guidelines we were, in fact, over-insured.

Now, since we had guaranteed replacement cost, replacing the structure was not the issue. The issue was that the contents coverage is tied to the structure 70 percent. Now, 70 percent of $206,000 is $144,000. Seventy percent of the market value is $234,000. Seventy percent of $479,000 would have been $335,000. Three hundred and thirty-five thousand dollars would have adequately replaced our contents. One hundred and forty-four thousand dollars did not come anywhere near it.

ASSEMBLYMEMBER LEE: Excuse me. Let me just ask you then, we heard earlier that the land and the structure is valued separately. Now, do we know or do you know whether or not the contents value is tied to the structure and the land?

MS. WETZEL: It's tied to coverage A which is just on the structure.

ASSEMBLYMEMBER LEE: Only on the structure.

MS. WETZEL: Yes. Now, it's not clear in the language of the policy whether the 70 percent is applied to the face value of the policy or whether it should apply to the replacement cost. And apparently no insurance company has really wanted this issue to go to court and have a court decision on it. A lot of
insurance companies have negotiated with their insureds on this issue.

Oregon Mutual has refused to negotiate on this issue, and when I attempted to pursue it I was informed by Oregon Mutual that I was actually in violation of the terms of the policy because I had started this remodeling of my kitchen and hadn't told them, although I had increased the value of my coverage to cover it. And they further sent me a letter in writing that if I pursued this they had the right to rescind my policy, and if I did pursue the issue of raising the content value they would exercise their rights.

So there I am. I am afraid to write them, to call them, to try to negotiate any further. I'm faced with rescission of the policy, not canceling it.

CHAIRMAN TORRES: Well, maybe you ought to tell them that they're going to face rescission of doing business in California if they don't take care of this problem. We'll be in touch with you then.

MS. WETZEL: Okay. Thank you very much.

CHAIRMAN TORRES: Thank you very much for being here.

I'd like to take a five minute break while I consult with my counsel regarding my comments. (Laughter.) I just want to make sure we provide due process to everyone, in a consultation with legislative counsel for the Legislature to proceed with the hearing as I had intended to do so so that every witness will be voluntary. I don't want to be accused of utilizing the same tactics as insurance companies have used against policyholders. So all testimony today is voluntary. That, however, does not preclude me from calling a hearing again to specific witnesses that may not be here today. But I do want to be fair to all parties and I don't want to be accused of not recognizing adequate due process and other rights which are available to you. But counsel is here and we appreciate your assistance here today, counsel.

(BREAK)

CHAIRMAN TORRES: Our last panel before we move to the insurance companies who have voluntarily agreed to be here -- some, as you know, declined through letters and we will make decisions on them later -- additional living expenses: Bob Unger, Robert Wyland, James Watts, Florence Piliavin, and Blaine Vetter. Please come forward.

Yes, Mr. Unger, you want to start? Is Mr. Unger here? All right, Mr. Wyland, why don't you start then.

DR. ROBERT WYLAND: All right. I did not know -- I'm insured with Transamerica and I did not prepare any material.

CHAIRMAN TORRES: That's quite all right. Let me assure you that any other
witness or anyone that is not able to testify today and wants to write to the committee in Sacramento, your statement in writing will be put into the record as if you would have testified here orally. Because you don't testify today or we have to close this hearing and you haven't been able to testify, don't worry, you can still submit your statement and I will hold the record open for two weeks to include your statements as if you had testified orally.

MR. WYLAND: Mr. Unger will give the overview.

CHAIRMAN TORRES: Okay, great. Mr. Unger.

MR. BOB UNGER: Sorry for the delay.

CHAIRMAN TORRES: That's all right.

MR. UNGER: Let me first give the committee some notion of who I am. My name is Robert Unger and my family lost our house in the Oakland fire. And in addition to that I have been very active in heading up sort of a subgroup of united policyholders representing Transamerica insureds. That is to say that Ina DeLong and united policyholders made an attempt to set up separate groups, depending upon what carrier represented particular people, and I headed up the group that was insured by Transamerica. And in that regard, should this committee wish information about what Transamerica insureds have been subjected to I would be more than happy to provide the committee with names and information about that kind of thing. But my purpose here today is to address a more narrow aspect of the claims process, namely additional living expenses.

Let me just put this issue in a bit of context here. If you consider the notion of additional living expenses as a part of the whole, it may be at a glance that you would conclude that it's a relatively insignificant aspect of the claim. But, in fact, it is another example of the many aspects of this claim that can be used as an intimidating tactic by the carriers.

CHAIRMAN TORRES: Give an example.

MR. UNGER: What happens is, and the reason that additional living expenses are part of almost every policy, is that when your house burns down your mortgage obligations do not, and that means that what you are left with is a responsibility to continue paying your mortgage and other expenses that might be associated with your former house because they're still debts. But you must also take on new and different expenses like new rent and perhaps new expenses which are a function of having to commute a further distance. Perhaps larger PG&E bills, perhaps any number of possible expenses that you will now find yourself incurring that you did not previously incur, and some, as I suggested, duplicative expenses. That's the perfect example of being the mortgage and the rent.

Now, what happens is that policies are written in basically two general
ways. I certainly haven't reviewed all policies but I can tell you that some policies create a time limit on the period of time that you will be entitled to additional living expenses. For example, a year might be a time period. A year from the day of the loss. Other policies do not have time limits but instead speak in terms of a reasonable period of time in which to get back into your house, in which to rebuild a house or to find new housing. Again, I'm paraphrasing the policies.

CHAIRMAN TORRES: What are your recommendations? What should we do, in your opinion?

MR. UNGER: Well, what I'm suggesting to you is that what happens here is that we have a situation where right now only about 400 homes approximately have been rebuilt, and carriers, including Transamerica, are suggesting that those people who have not finished their homes and who are covered by provisions that say a reasonable period of time or a provision like that are not any longer entitled to additional living expenses because, after all, there are about 400 folks who have finished their house and moved in. There are also about 2,600 folks who have not finished their house and moved in.

And in this regard I would note that FEMA, which has decided to -- under a FEMA program, for example, FEMA pays the cost of building permits where there is not a payment from the insurance company for that particular item. FEMA was going to cut off those building permit programs. Instead, because of the circumstances facing people, they've extended it until, I believe, some time next spring.

Similarly, there have been legislative changes that have been very, very recent that have recognized that the time to replace a house did not properly permit adequate time in terms of the tax ramifications. There has been additional time given to people to replace personal property, additional time given to people to replace their homes. And what's happening is that there are governmental recognitions, is what I'm suggesting, that the amount of time to replace a home in these particular circumstances are not like the circumstances that one would face in a single house fire. Yet, the companies are trying to use the fact that 10 or 20 percent of the people have moved in to suggest that other people should be, or in some cases have been, cut off from additional living expenses.

Dr. Wyland, who's sitting over to my right at the end of the table, will tell you, for example, that his additional living expenses have already been cut off.

And there's another thing that I want to make sure that the committee understands, and that is that in addition to the fact that ALE coverage exists,
there are typically alternative formulas under which you might elect to receive ALE. One is to submit receipts, detailing each and every penny that you've spent and which you contend is an additional living expense. Another, and these are things that are typically under policies, the option of the insured, is to suggest to the company that instead of going through the trauma and the difficulty of that kind of documentation you may instead get paid the fair rental value of the house that was lost.

There are a couple of things that I want to point out about this. First, Transamerica, I know from personal experience, typically did not explain to people that they had that option, and they didn't explain it to people, I believe, for a couple of different reasons. One is that the first option documenting the additional living expenses was one more of the numerous, onerous parts of the process. And secondly, it became readily apparent that people could receive greater money by getting fair rental value. There's another subcategory of this fair rental value issue which is that Transamerica initially refused to pay fair rental value as the house was furnished; and clearly, a house that is going to be rented is worth more if it's furnished. It's worth more if it's got plates, it's worth more if it's got all kinds of -- the entire house is outfitted than if you bring someone in to a house that's just got walls.

Ultimately, after a lot of pressure was brought to bear on Transamerica, they changed their position and they then started paying fair rental value based on the house as furnished. But again we get back to this point that now people have been cut off from their ALE and are being threatened by being cut off from ALE. And there is example after example after example of things that come within the policy which, if you look at them in isolation, you can conclude that the insurance company has a reasonable right to request this, that or the other thing. But when they continue to use each and every device under their policy as a way of harassing the insureds, it becomes not only unreasonable, it becomes outrageous.

And I want this committee to know something else as well, which is that people who have taken part in activities to try and assist those people who have lost their homes and to try and share information about what one person has got or another have been faced with difficulties themselves. There's a cogent example of this. There is a person who was also involved and still involved actively in this group representing Transamerica policyholders and he was making a practice of telling people what he learned about other people's settlements. If you will, he was a clearinghouse of sorts. People would call him up and say, I believe I'm going to get this amount of money, what do you think? He told
them freely, "I was called at my office by a high ranking person at Transamerica," high ranking in the claims process in any event, "and I was told 'I want you to tell this person to stop giving out this information.' And then he proceeded to say that 'if he doesn't stop giving out this information," and this is a quote, "we are going to put him through claims hell.'" That was not a threat, that was a promise because it is now being acted upon.

ASSEMBLYMEMBER LEE: Are you saying that people are being blacklisted?

MR. UNGER: Yes.

Now, I don't want to use up any more time than I already have because there are other people that I want to let speak, but I do want to take this opportunity to thank you, Senator Torres, as well as Mr. Hernandez, for trying to set up this hearing, as well as everyone else who has been involved in setting this up or who might be on the panel.

I hope that this is not an end today but, instead, that it is a beginning. Instead, that it is a recognition that there is a need for considerably more hearings that will permit much more in-depth consideration of the problems that people have gone through because people did not get the peace of mind that they believed that they were buying when they got insurance policies. Instead, what they got was grief and stress and strain.

CHAIRMAN TORRES: Dr. Wyland, do you want to proceed or pass?

DR. WYLAND: Yes, I want to say just a few words.

I do not have the complete insurance policy and I have requested it from Transamerica, I have requested it from my insurance broker who wrote the policy. They all promised they would send it. I have never been able to receive any more than another copy of just the face sheet. I cannot read the fine print of my policy. The face sheet lists a dollar amount and I will call it loss of use because they ask what the fair rental value would be. They did not want to be bothered with many receipts for every meal that we had to eat out or rent that we would pay. That seemed fair enough.

CHAIRMAN TORRES: Has it been your common experience in talking to other survivors that their policies have not been made available to them?

DR. WYLAND: I'm living in the valley now out of town. I have not been in touch with any of the fire victims so I don't know.

So they paid me a monthly stipend for a period of six months. So that would mean that I received one check shortly after the fire, another one on April 20 of '92 at the sixth month anniversary and then a third check in November of '92. These amounts still did not exceed the dollar amount on the face sheet of the policy. April of '93 I expected still another check; that did not arrive. I called my agent. I could not reach him. Then I received notice that DL Glaze
Company would now handle all matters and if I had any questions to contact them. They, I believe, are in San Rafael.

I called the Glaze people and he says, "Well, I don't know." He listened and then he said, "I'll talk to your agent, I'll talk to Transamerica and get back to you." Of course, he never did get back to me. I called him again. He said, "Well, all right, I talked to the agent, I talked to Transamerica," he said, "I'll talk to them again, I'll get back to you." This went on repeatedly. He would never return the calls. So finally I thought all right, I will not go through this intermediate, the DL Glaze Company, I'll call Transamerica myself. I did and presented, you know, again, my question: Where is this loss of use payment that was due two or three months ago now? Well, he was very rude and he intimidated me. He put me on the defensive of why haven't I started my house; several people who they insured are already living in their home. I said, "I don't know, I'm not in the business of building homes, I'm not a contractor, I'm not in the permit process." I said, "Why don't you speak with the officials in Oakland, speak with my architect and speak with the contractor? I don't know why we're not ready yet to build." But he was so intimidating that I got no further in requesting my loss of payments.

So my feelings now have been since we really have not settled on the rebuilding cost, I thought the loss of use payments is a minor issue to that. I did not want to threaten litigation, I did not want to say that I'm going to write to the Insurance Commissioner; I thought I still want to keep it friendly and civil because this is a minor matter compared to the rebuilding cost.

So as it is now, I feel that they are a year behind on their payments, two payments missed, and they have not yet even reached the small dollar amount that was on the face sheet.

CHAIRMAN TORRES: All right. Thank you, Doctor.

MR. BLAINE VETER: My name is Blaine Vetter. I'm a State Farm policyholder. My home was partially destroyed. Our contents were majority destroyed in the fire. I would like to talk to you about an issue that is somewhat generic, although it doesn't concern everyone.

The issue is how does a carrier justify cutting off ALE payments to their policyholders when they have purposefully delayed the resolution of a claim and thus made it impossible for the policyholder to replace their house in a timely manner?

In 1985 my wife and I finished a major addition to our home. At that time we asked our agent to sell us a new policy that would allow us to replace the house just as it was in the event of a fire or an earthquake. We told our agent that we were willing to pay extra for this coverage.
CHAIRMAN TORRES: This is still State Farm.

MR. VETTER: That's correct.

He presented us with a policy that he claimed would guarantee the replacement of our house. At that time he upgraded us from an HO3 to an HO5 policy with a guaranteed replacement cost provision.

At the time of the fire we were paying almost $200 each month for this policy. However, my wife and I were confident that the extra money we were spending in premiums was worth the peace of mind that guaranteed replacement gave us. We were sadly mistaken.

We sit before you today, two years have passed, we're still out of our house. We have paid legal and other professional fees totaling well over $120,000 during our two-year struggle to collect on this so-called guaranteed replacement policy.

In six days our carrier will cut off our ALE payments and we will be forced to pay both our present mortgage and the rent for the house in which we are temporarily living. How did this happen? It would take hours to relate our entire story to you so I'll try to be brief.

Page 11 of our contract with State Farm requires me, the policyholder, to, and I quote, "provide specifications of any damaged building and detailed estimates for repair of the damage," end quote. Although the contract clearly requires me to provide this information it took State Farm seven months to accept our claim to pay our architect to produce the plans and specifications that they require in their very own contract.

Eleven months after the fire my wife and I presented our carrier with the set of plans and specifications necessary to develop formal bids to replace our house the way it was before the fire. Thirteen months after the fire we presented our carrier with two formal competitive bids from two contractors. One of these bids was from the very same contractor who built our addition five years earlier. The plans were done by the same architectural firm that had done the addition five years earlier. We were trying to guarantee replacement.

Our carrier's response to the two bids was to present us with a ridiculous low-ball bid developed by a contractor who had never seen the bidding documents and, as we understand, had never actually visited the loss site.

Page 12 of our homeowner's contract clearly states that if the insurer and the insured cannot come to agreement on the amount of loss either one can demand appraisal. When it became clear to us that our carrier was not willing to make an honest effort to resolve our differences we demanded appraisal. We demanded the appraisal in early December of 1992. Our carrier repeatedly attempted to cancel the appraisal hearing and, in fact, successfully delayed the appraisal.
hearing until June 15, 1993. Forty-five days later, on July 31st, the appraisal panel made a unanimous award for the replacement cost of our dwelling. On September 15th we started the rebuilding process. Our contractor estimates that it will take six to seven months to get us back in our house.

Interestingly enough, even after the fire rendered our house uninhabitable and destroyed most of our possessions, State Farm has charged us and we have continued to pay the full premium amount of our policy. My wife and I find it both ironic and disappointing that State Farm, who, according to Fortune Magazine, had profits of $16 billion in 1991, caused us to spend over $24,000 in legal fees just to protect our right under the contract to go to appraisal, and they will continue to charge us full premium amount over the next seven months while we're rebuilding, but they are unwilling to extend our temporary living allowance over the same period of time. In other words, the most profitable insurance company in America today is more than willing to take our premium dollars but is unwilling to reimburse us for the costs that we incurred due to their delaying tactics, but maybe that's how you make $16 billion in profit.

I have recommendations for you, Senator. Your committee should audit every policyholder today and insurer who is under appraisal. Our appraisal took seven months to get done. I've heard stories of people who have tried to get into appraisal for over a year. There are probably people in this audience who have been trying to get to appraisal for eight or nine months. The appraisal clause of the insurance contract was written by the insurers. It was put there supposedly to try to obviate any type of legal action. It is the last forum where you can try to resolve a dispute. If, in fact, this appraisal clause is being stonewalled by the insurers, how then can the policyholders possibly honor the contract? How can you ask us to try to rebuild our houses and our homes and our lives in a year and then delay the resolution of the claim by taking your own contract and playing with it and disallowing us any opportunities to resolve the claim?

This is an area, it's an issue that is, I think, straightforward, it's simple. They wrote it into the contract. I think somebody else needs to be able to help us, the policyholders, enforce their contract.

I also suggest that your committee, if you have the opportunity, audit any claims that are over two years old. If there's anything that we need to do, in my opinion, as a society, especially here in Northern California, we have to learn some lessons and we should learn some lessons from Loma Prieta. There are people who lost their homes in 1989 who are still not settled on their insurance claims. I don't want to sit here two years from now in front of you again, four years from the fire, and listen to my neighbors who cannot, for some reason
other than their own, rebuild their lives and their houses.

Thank you.

CHAIRMAN TORRES: Thank you, Mr. Vetter.

MR. JAMES WATTS: My name is James Watts. This is my daughter Alisa. We're both State Farm policyholders.

CHAIRMAN TORRES: I can see she's very intrigued by this proceeding.

MR. WATTS: Well, for most of the morning she's been acting like a State Farm adjuster but she's...(laughter)...but she's finally decided to cooperate a little bit.

I'm a victim of the Oakland fire, Alisa is not, but next week she's going to be joining us as a fire victim as State Farm cuts off our additional living expenses and my wife and I scramble to try to find a place to live and to figure out how we can manage to pay our existing mortgage and rent as well. There's really no good reason that I have to be here today. Our claim was so simple and so straightforward it should have been resolved within six months of the fire.

CHAIRMAN TORRES: Tell us about it.

MR. WATTS: Well, in the summer of 1991 my wife and I began making plans to start a family. Alisa should actually be two years older than she is right now. We had refinanced the mortgage on our small home, borrowed about $100,000 and began construction of a home addition to make room for a new baby. On October 20th our addition was almost completed when we lost it, our home and all our personal belongings in the fire.

The next morning as we stood at our property address and stared at the smoldering ashes of everything we had owned in our life we still felt somehow fortunate because we had what we thought was a good insurance policy with a good company. We also had an active building permit, we had a contractor on the site, we had architects in our employ, and we had blueprints, complete construction blueprints of the addition that we were building and pretty good blueprints of the old existing house as well -- floor plan and views. Even though we were confident we could rebuild immediately, using the blueprints we had and our same contractor and the architects, we really figured we'd be one of the first people on our street to be back in our home. Unfortunately, we were sadly mistaken about that.

From the beginning my wife and I believed we could reach a fair settlement with our insurance company by working closely in good faith with our adjuster without the assistance of lawyers, public adjusters, and other outside agencies. Again, we were sadly mistaken.

Since the fire we have been through claims hell on all areas of our policy. I'm here today to speak about additional living expenses which is our most
pressing problem right now.

We suffered changing adjusters, lost papers and letters, computer generated scopes which we as simple homeowners could not decipher, low-ball estimates from out-of-town contractors, changing policy terms and definitions, and special investigations. We've written over 40 letters, made countless phone calls, attended numerous meetings in an attempt to settle our claim fairly and quickly. My wife and I decided soon after the fire that the simplest thing to do was rebuild our exact same home on the same lot. We thought that by doing so it would simplify and expedite our insurance settlement as compared to building a different home. Somehow were again mistaken as our claim is still unsettled two years after the fire and we still have not started building. I was issued a building permit last October. It expired six months later. I got an extension and it expires again next week.

Over the last two years we've had to wait an average of six to ten weeks for our letters to be answered. In some cases our letters were never answered or portions of our letters were ignored. Many of our telephone calls were not returned. We began to feel that we had intentionally been put on a slow track by our insurance company to pressure us to accept a low settlement as the threat of the cut-off of our additional living expenses rapidly approached. And now next week our insurance company intends to make good on their threat by cutting off all of our additional living expenses completely.

Since the fire we've continued to make our monthly mortgage payments on the home that burned as we are committed to do for the next 28 years. We cannot afford to pay our mortgage plus rent on a temporary home until our home is rebuilt. We now have Alisa with us to care for and we realized we couldn't wait for our insurance company to settle our claim before we started a family, so we went ahead. So she's a little older than she might have been otherwise if we had waited on our settlement.

We don't know what we will do for housing after our insurance company cuts off our rent next week. We can only afford to continue to pay our monthly mortgage on our burned home. We are angry that our insurance company has not dealt with us in good faith and that they have failed to settle our claim fairly in a timely manner. Because of this we feel State Farm insurance should continue to pay our additional living expenses until they can settle our claim and we can rebuild the home we lost and move back in.

We've documented all the delays involved in our settlement, including two instances when our file was sent to the "special handling unit" for investigation of small petty issues unique to our claim. We were told by our adjuster that nothing could be done on our settlement "while our file was in the
shoe" which is the special handling unit. Each time it took the shoe three to four months to reach a negative decision not in our favor, thus the bulk of our settlement was in limbo for six to eight months while our adjuster did not have our file. We could really use that six to eight months now to rebuild our home.

Our relationship with our adjuster turned from cooperative to adversarial by January of '92. In May of '92 she made us a rebuilding offer that was so low the contractors we approached to give us a bid just laughed at our budget and said they couldn't even consider the job because our insurance company wasn't serious. A year later in May of '93 State Farm had almost doubled their offer, proving to us just how realistic they had been a year before. A whole year had been wasted.

My only recommendation for you would be that perhaps all policies in the future be revised to allow for additional living expenses to be paid for a period of one year from the date that an agreed upon rebuilding cost is established in writing and a building permit is issued. Such a policy would encourage companies to work with policyholders to reach an agreed upon rebuilding budget quickly rather than to encourage a delay by insurance companies who would use the threat of additional living expense cut-offs as leverage to pressure the insured to accept a low settlement.

Thanks for your time.

CHAIRMAN TORRES: Thank you for taking the time.

ASSEMBLYMEMBER LEE: Mr. Chairman, this is a very elementary question. I apologize for asking it; however, I want to ask any member of the panel to clarify this for me with regard to paying a monthly mortgage payment on a house that is burned down. Is there any insurance coverage that pays that off? I mean, up front can you purchase a policy that pays that off in the event of a fire or not? I'm just trying to get some understanding of this. This is new to me.

MR. UNGER: Well, I think there are various forms of mortgage insurance but with or without mortgage insurance the whole idea of additional living expense coverage under a standard homeowner's policy is to put a homeowner in a position so they'll be able to afford to pay off their old mortgage and not have to pay additional money for the new house they're renting.

ASSEMBLYMEMBER LEE: Okay. So that goes with your mortgage policy, your mortgage cancellation policies, for instance. Your mortgage insurance policy is not related to your fire insurance policy.

MR. UNGER: What I'm saying is additional living expenses coverage in an ordinary homeowner's policy is very much related, maybe not in a direct fashion but it's very much related to the idea of taking away the burden of having to
pay a mortgage and new rent. The idea behind the coverage is you'll have enough money to pay off your mortgage because we're going to pay you what you're incurring now that's over and above what you were incurring before. And now...(inaudible)...cut that off. Or in some cases they have cut that off. So if they cut that off what happens is that people are left with paying both their mortgage payment and their rent or what have you.

CHAIRMAN TORRES: All right. Is Florence here? She's not. We'll take her statement in writing as part of the record.

You want to sum up, please?

MR. UNGER: Yes. I just wanted to make a remark with respect to -- a remark that Commissioner Garamendi made. He said that there was a discrepancy between, or an apparent discrepancy between the Department's figures for cases that were resolved versus the survey information that was being generated. And I think that there's a relatively easy way to explain this and it has to do with the definition of "resolved".

In the spring of 1992, as the Commissioner indicated, he asked all carriers to resolve all claims by July 20th and there was a definition attached to that word, which was to come to an agreement on the amount that policyholders would be paid for the structure, because at that juncture people were not even close to having an agreement on that, much less having payment.

CHAIRMAN TORRES: So it was on a final resolution.

MR. UNGER: Right. I believe what's happened is that insurance companies have continued to use that definition in reporting results to the Department. So they may well say that there are only 3 percent of the people who are not resolved when, in fact, we know that there are hundreds of people who have yet to settle their claims. So it's a matter of definition.

CHAIRMAN TORRES: Mr. David Schaefer, are you still here?

MR. DAVID SCHAEFER: Yes.

CHAIRMAN TORRES: Yes, and you've requested permission to record this hearing, right?

MR. SCHAEFER: Yes, I did.

CHAIRMAN TORRES: And you're an insurance broker.

MR. SCHAEFER: Yes, I am.

CHAIRMAN TORRES: And what are you going to use this video for? How to train insurance agents? (Reply inaudible.) All right. Just wanted to know who you were.

All right. Next panel.

MS. BRUNO: Mr. Chairman, that concludes the panels on the subject areas, as you know. However, throughout all of these stories there is the human toll that
is paid and we appreciate your interest and your endurance in what has turned out to be a longer hearing than we had planned on.

CHAIRMAN TORRES: Well, let me say this at the outset that I intend to come back and what I want to do at that point is to hold an evening hearing so that people don't have to take time off from work to be here. I'm sorry we couldn't do that this time but the time frame in which the policyholder groups wanted to get this thing moving was a priority, otherwise we would have done it in the evening. But I think it requires anyway a second hearing, and I think my consultant, Mr. Hernandez, is now becoming an expert in this area. Very well informed as are all of us and I appreciate that. But let me assure you that we will be back and it'll be in the evening and we'll try to work out with Ina and others if this location's not convenient find a more convenient location for folks to meet in. I'm sure as I have already have had tremendous assistance from Mayor Harris' office and the City Council here and then, of course, the two legislators that are here. I want to work with them as much as possible because this is a group effort and state and local governments need to work together as much as possible because we all have the same boss: you.

MS. BRUNO: Thank you. I like that.

Well, it is a major problem and this is an opportunity. The firestorm experience has, I think, become a laboratory of insurance issues because I think it's probably the first time, thanks to the efforts of Ina DeLong, that policyholders have been able to swap stories and compare what has happened to them, compare experiences. So there's a certain amount of tribal experience and wisdom that's built here that isn't available anywhere else.

CHAIRMAN TORRES: You're right, and because of all the pain and the anguish across the board there's a historical significance that I'm getting to become aware of just being here in the last few hours in terms of what's -- you hear from it anecdotally from my friend Senator Petrie and agony and pain that they went through and the tremendous library that he lost than can never be replaced. And so that, coupled with what I'm hearing today, gives me a very acute awareness that this is much more than you even give yourselves credit for in terms of what you're doing to change perhaps the nature and the scope of how insurance functions in the country if not the State of California.

We'll get to the insurance companies in a moment but you had a special...

MS. BRUNO: We have an individual, Mr. Chairman. Her name is Bonnie Duffy. She will be accompanied by a very good friend of hers, Bob Haney. Her story tells the ultimate toll that some families have paid out of this insurance pressure. This is as much an admonition to the press: Ms. Duffy is not going to be available for questioning afterwards so if you want her story get it now.
She's going to talk for just a couple of minutes.

And thank you very much for all of your attention and understanding.

**MS. BONNIE DUFFY:** Shortly after the fire my mother, Daisy McClellan Duffy, lived with me in a tiny studio, the _______ Apartment. She slept in the bed and I slept on the couch or at a neighbor's, keeping a close watch on my mom. One morning she got away from me. She went down to FEMA on Claremont. By then State Farm had set up their trailer. Some volunteers from State Farm took my mother first to the house the family had built on Marie Way and Chabot Road. This first house destroyed by the fire. Such a beautiful canyon, with its trees, possums, cottontail, deer, and all the little creatures. What a great place to raise kids. Robberies, we never heard of.

Then they take her to the lot on Buena Vista. Some time later that day I received a call from mental health: come and get your mother, she is hysterical. My kind neighbor Jenks took me down to retrieve my mother. This individual from the City of Oakland became very abusive with me. "Once I get my mother out of this fiasco she will be fine." This, the beginning of the evil influence of State Farm Insurance.

Bob Haney and mom go to the agent Mark Canessa(?). They started to give mother a line about rebuilding her house with the amount of $125,000. Again, the evil hand of State Farm. The difference later was ___________ to work and much work on Bob's part. The amount would have been the difference of half a million dollars.

Some time later in the office of the family attorney, another turkey from State Farm, a Mr. McFarren(?); investigator, he called himself. The questions that he came up with were so personal and so irrelevant. One of the questions was a real doozy: Where resides mommy the night of the fire and what was I doing? Now, really. They gained nothing from this but a harassment and pressure on my mother.

The following days passed and Bob Haney and myself moved mom into the cottage behind Bob's house. Mother had been working on finding a home for our little sheltie. Mother lost her little kitty Susie in the fire but she did get our little dog out with her. And ___________ misplaced animals they went to the vet on Broadway. She had a friend who had found a new home for Fluffy in Marin County.

The end of November mother had gone to the vet, paid Fluffy's bill. She then went home to the cottage, took an overdose of pills and then with tiny scissors cut her wrists and finished the job.

I called Monday morning as I had not heard from mom. She called me every day and I was usually with her every day, with the exception of that weekend:
I'm not feeling well. Bob, would you check on mom as I have not heard from her. He returned my call some time later that day to tell me mom was dead.

You can't tell me this corporate syndicate did not push my mother over this side. They had an evil hand over her from the beginning and took advantage of a sick, elderly woman.

Some time after my mother's death the attorney, a Mr. Clark Holland(?), pulled a real con job on the family attorney making that an annuity from State Farm would be thing in the world for me. They could not wait for me to sign the papers. I was exhausted and slept for three days but upon my waking my gut feeling told me something was really wrong with this. I then turned it down. They couldn't wait for me to sign the papers. This shifty-eyed little creep, another one of State Farm's hatchet men.

Thank you. I'll turn it over to Bob. He'll give you the amounts that they tried to con.

MR. BOB HANEY: Well, there's no real need to give the amounts or the hassles that Bonnie and her mother Daisy went through because exactly -- sitting here today you hear everything that they both went through. Complete, detailed, you know. We have letters from State Farm, we have letters that Bonnie wrote. It's an identical trip that people went through and the harassment, of course, killed Bonnie's mother.

CHAIRMAN TORRES: Thank you very much.

Mr. Dempsey. Peter Dempsey. Do you want to take the podium?

MR. PETER DEMPSEY: Thank you, Bonnie.

My name is Peter Dempsey and I'm an Allstate group member. I was secretary for the Allstate group and I hope that this is the start of a new standard of ethics in insurance settlement processes.

I lost my home in the fire after watching it approach my house for two-and-a-half hours. Nothing happened. There were no fire trucks.

When I hear the testimony of somebody like Bonnie Duffy's case and for many other people that were in the fire, something that comes to mind is something that's called the "Stockholm Syndrome". As in the case with Patty Hearst and the SLA, we give in to our captors. We begin to actually believe what they're telling us. We believe that maybe we are greedy, maybe we are asking too much. Usually about three or four months into the process we realize that it's their claim but it's not the truth.

I'm very grateful for the Department of Insurance's work but the insurance companies apparently consider the Department of Insurance to be a toothless dog. The reason that I say this is that the Department of Insurance levied the fine against Allstate Insurance and I continue to help Allstate policyholders in
their settlement processes and Allstate's behavior has not changed one little bit.

I am the person that was mentioned in an earlier testimony about an examination under oath. They put me under that examination under oath for two full days. I brought legal representation with me because I was not sure what an examination under oath was. For those two full days they spent an awful lot of time on bad faith issues and very little time on contents and structure issues which they're allowed to go into under the examination under oath. The lawyer, during that process, consistently went off record and the adjuster was present during the examination under oath and they would make me an offer. I would say, Put the offer in writing, sign it, I'll look at it, I'll come back to you in a couple of days. They said, No, we're back on record. They would continue their investigation.

This went on for two days. I walked out of that examination under oath exhausted, blasted by this experience. I had no idea what they had found but on the second day when we were reviewing the policy application I noticed down at the bottom that it said, "See picture attached." No one had ever shown me this picture. I had seen this on the form before but I'd never seen the picture. They grilled me. They asked me, Geez, do you own a Polaroid camera? Have you ever taken a picture of your house? Did you give it to your agent? No, of course was the answer to all of those issues. I said, I'd really like to see that picture. They left the room, came back and tossed the picture on the table with a gloat that they had got me good. It was Mikey Walker's house, six doors up.

I had gone through two days of hell because of their misinformation that they could have easily cleared up with me earlier.

What I'm actually supposed to be here at the podium for is to present some recommendations born of experience. I can turn these in but we have six, seven broad topics. One of them is when you buy a policy the insurance company has to provide you with a complete copy of the policy before you sign and write your check. There is no way that you can compare one coverage from one company with the coverage of another company. They will always give you your declaration page but then several weeks later you finally receive your policy. On any loss, also the insurance company should be required to give you a variety of things: One is the complete copy of the policy after the fire. Unless I had asked for it I would have never received it. The other thing is they need to give you a full disclosure of what unfair claims practices are so that you as a policyholder know what to look for. God forbid. Another thing is an outline of the claims settlement process. No one received an outline of what
it would take to settle the claim with Allstate Insurance. In fact, Allstate itself promised that it would produce such a document in June of '92. They produced something that was so vacuous that it was incomprehensible and unfollowable.

Another major topic is that examination under oath. We suggest that there's an option, or there should be an option of taking that examination under oath in a written or in oral form, something at the choice of the policyholder. This protects the policyholder from verbal badgering by the insurance company's lawyer, protects the insured from being questioned on issues of bad faith that are not germane to the discovery of loss...

CHAIRMAN TORRES: Mr. Dempsey, on that issue. When you submitted, as I presume you submitted a statement of contents that were lost during the fire, for example,...

MR. DEMPSEY: Yes.

CHAIRMAN TORRES: ...did you sign that statement?

MR. DEMPSEY: I produced a 32-page document. They never asked me to sign it.

CHAIRMAN TORRES: So in other words, there was never a form which the company provided you to sign under penalty of perjury?

MR. DEMPSEY: No, they never provided me a form.

And then the last part is that if a person can do it in a written way, this can keep the insurance company from using the high pressure confines of the hearing room as the place to make off-the-record and unwritten settlement offers.

There's more and I'll just turn it in.

One of the last points I have is freedom of information. When George Kehrer said at the beginning a case of Show And Tell but more a case of Tell Me And I'll Show You Nothing, it's exactly what happens with the insurance company. The insurance company adjuster keeps a diary so that one adjuster knows what the previous one did. At no time was I allowed to review my adjuster's diary. It was clear that there was information in that diary that was incorrect and it kept being brought up by the Allstate adjuster as something that needed to be settled, and it had been settled.

Insurance adjusters need to be trained, certified and licensed and must be under the penalty of losing their license if they continue to badger their customers.

There needs to be a decision on the statute of limitations. One of the biggest issues in working with the Allstate policyholder's group was the variety of statute of limitations covering all sorts of different issues. No one had a
sense as to when these statute of limitations started and when they would end. What actually happened because of this is that the company would use the statute of limitations as an unfair practice because they would say, See, the limitations is running up; either you settle or you'll have to sue.

Closing items, there is an Unfair Claims Practices law, 79.03. The Department of Insurance can use this but it needs stronger teeth so that they can go after somebody like Allstate Insurance and make sure that Allstate Insurance pays attention as opposed to just putting the penalty into their budget of settlement.

I'm also asking that there be an amendment to that 79.03 that policyholders may pursue claims directly against their company using those same Unfair Claims Practices definitions.

There's more in here. I'm happy to answer questions but it's been a long day and so I'm very grateful for your attention at this meeting.

CHAIRMAN TORRES: Thank you, Mr. Dempsey.

ASSEMBLYMEMBER BATES: Speaking of long day, I'm going to have to leave. I'm sorry about that. I made a commitment a long time ago that I would be in Berkeley at 1:00. We're now to the insurance people and it's unfortunate that I'm not going to be able to hear their responses, but a member of my staff is here and will remain.

I just want to give you my quick impressions before I leave. First of all, this hearing has been extremely valuable for me from a learning point of view. A lot of you know that after the fire I focused my efforts on trying to do something about the question of the firestorm and preventing the firestorm and the interface between urban and rural land. And luckily, the bill that I proposed Governor Wilson signed into law and we have made major improvements in that area, hopefully to prevent this kind of holocaust from happening again.

I have not been particularly involved in the insurance aspect of that, I've left it up to others, but I want to give you my impressions. It seems to me that we need to have a minimum standard coverage with standard terminology, boilerplate terminology, that needs to be prepared in a way that every product is measured against the same indices so that people know exactly what they're getting and exactly what they should receive.

I've suggested to Gary Hernandez -- I don't see him this moment -- that Insurance Commissioner Garamendi ought to proceed to put forward what he would consider to be the proper insurance from the standpoint of phraseology and in terms of having the points covered. Then in addition to that there should be someone who would, in fact, be in a position to determine the value of the dwelling and the value of the land, the value of the contents and that would be
a figure that then could be bid upon by insurance companies based on a standard operating from the same page.

I'm also interested in the issue of how we can do something about the certified adjusters. Adjusters need to have some kind of way in which it's judged and they're held accountable for their actions. There are lots of other things that were mentioned here that need to be thought through. But I don't know why we can't have a plan. I looked at my policy and I look at it and it's all boilerplate language: all of it's plugged in language. It's not that complicated.

So it seems to me that you can figure out what it is you're thinking about the replacement value of your property, you're thinking about the question of whether you move. All those things are standard. We can do it. This is 1993. We can easily put it out there and then the insurance companies can vary, they can tailor to individual needs of individual policy. They can make variations in the content, they can make variations in other kinds of coverage, but at least everyone would be operating on a fair system and a system that would be put forward.

This legislation has been attempted in Sacramento in the past and they've killed it every year because it makes too much sense. It takes away all of this rigmarole and all of their abilities for them to bid different ways and do different kinds of sales jobs around their product. And so it hasn't gone anywhere in the Legislature, probably won't go any place in the Legislature because they will kill it. But there's no reason why the Commissioner and other people cannot put forward the ideal plan and people can then have that as a point of reference. They can then look to plug in the numbers that are appropriate for them and then they can hold accountable insurance companies to what would be the ideal. And that's something that I'm going to at least pursue with the Commissioner and hopefully with Senator Torres who's one of the leaders in this field.

I'm sorry that I'm not going to hear the response of the insurance industry but I'm going to be involved with this in the next year. So thank you very much for coming. I'm sorry that I have to leave.

**CHAIRMAN TORRES:** Thank you, Mr. Bates. And thanks, again, for your leadership, Tom.

We never get to hear it but these two legislators, and I've been in the Legislature 18 years now, and Tom Bates and Barbara Lee are just terrific advocates and I think you have some excellent representation here. That's a personal not a political comment.

I'd like to have the representatives from State Farm, Farmers, Allstate,
Transamerica, Safeco, CSAA, others who are here to please come forward and we'll hear your responses.

COUNCILMEMBER JORDAN: Senator, as people are taking their seats, one of the things that I would hope comes out of these hearings is an understanding of what has changed, if anything, in terms of the way we as homeowners do business with the insurance companies and helps to spell out what the -- and I include myself because I know shortly after the fire I was contacted by my own insurance company to renew my insurance and the issue is, do we know the right questions to ask and how can we publicize those questions.

And I think one of the things that was discouraging about what Tom Bates just said is that there are some reforms that we know that are necessary and yet they are defeated at the legislative level. So perhaps one of the things we can do is have a dialogue about how the insurance industry themselves can help make those reforms possible.

CHAIRMAN TORRES: That's a very timely comment because when I took over this committee, as you know the former chairman of this committee is now in prison and it was not a comfortable situation having to deal with the FBI records and others just to get hearings held of this insurance committee. But when I took over the chairmanship to this committee, I just want you to know that I refused to accept any contributions from the insurance industry or from the trial bar so that no one could ever question the decisions that I would make as chair. And I must say to the credit of the insurance companies that have come before me it has been a very healthy exchange of ideas and issues.

Now, the testimony that we have heard today would want us to resort to violence but I am a nonviolent man and I believe in nonviolence as a way for social change and I don't think that any of you are the people that we've talked about or that the witnesses -- do you recognize these gentlemen at all? Oh, some of you do, all right. I take that back. What I'd like to proceed with for the next time we get together, and I hope some of you can be there -- is November 18th too soon for you all? All right. That'll give us enough time to digest. I'd like to have the next hearing be a working session hearing and that will give us enough time to digest all of the recommendations that have come in today, to talk with the insurance industry to get their perspective and also to get further perspective. And what I'd like to do at that meeting on November 18th, and we can all schedule it together now, is to have a working paper that we can look at. I think we've heard the testimony, I think we know the issues that are out there. Now let's get to work on solutions. And I know we can have the Department of Insurance present as well during that time. But let's schedule November 18th in the evening and that will give us some time to get
some paper out to you and then get a working paper moving; otherwise, I think anything earlier than that would be a little too early. Unless you think we need to move it earlier than that then that's up to you and we can discuss that.

All right, who wants to start?

MR. JACK DIXON: I'll make a few brief statements, Senator Torres. My name is Jack Dixon. I'm from State Farm Insurance. Unfortunately, Mr. Dorset was unable to be here with the short notice that he's had but he would have loved to have been here.

I, too, am a nonviolent person. As an activist in the social issues that took place in the late '60s and early '70s, I also subscribed to the philosophy of nonviolence. For that reason I did not wear my bulletproof vest. I didn't think we would need it today.

We've heard some very compelling, human interest stories today. Unfortunately, because of the constraints that we are under we cannot respond to point-by-point allegations that have been made. With that is that we will talk with you about general things from State Farm's perspective. However, we will make ourselves available to you, Senator Torres, as well as members of your committee specifically with any insured that would like to meet personally and discuss their individual claim at any time that you so desire. Of course, you understand we would need to have a release from that particular policyholder in order to discuss their specific claim. That is the only reason why we're not able to respond to some of the allegations that have been made on point-by-point issues.

CHAIRMAN TORRES: Ms. Lee.

ASSEMBLYMEMBER LEE: Let me just ask one question. Are legislators precluded from participating in meetings with insurance companies as a monitor or as an observer?

CHAIRMAN TORRES: No, not at all.

ASSEMBLYMEMBER LEE: Thank you.

MR. DIXON: Thank you, and with that, Mr. Holland will talk about some of the general issues that you've asked us to address in today's meeting. Unfortunately, I will need to leave at 1:30 today. I have an appointment that I've made for some time now and I will have to leave by 1:30. So if I do get up and leave if we're not done by 1:30, if you would like to meet with me personally on any issues in reference to the Oakland firestorm since I was directly involved in it for practically two years is that I would be more than happy to make myself available to you also, sir.

CHAIRMAN TORRES: Well, let me just indicate that testimony that I have heard today is the worst I have ever heard in the 18 years that I've been in the
Legislature, and not directed personally to you but to the industry, it boggles my mind. And keep in mind that I've held hearings throughout the state in earthquake situations and other situations and police brutality issues across the State of California. This is the worst I've ever heard and I think the industry needs to clean its house and get moving. And just from PR purposes it would seem that you would have written off and paid off these insureds long ago just to avoid this kind of hearing. It just doesn't make sense to me.

And I think that the issues that have been raised, irrespective of whether there's a rebuttal or not and I'm sure there are rebuttals, but if there are procedures that are going on that have been stated by people here today it is abominable to me. As a civil libertarian it is abominable. And I think that that kind of harassment on the part of a company toward a customer just doesn't make sense to me. I'm sure there may be answers to all of the issues that have been raised today.

It would be very easy for me to harangue you and get up on a soapbox and cut you into pieces. Let me assure you that I am extremely capable of doing that. But it doesn't make sense to resolving the pain that's here. I've never been in a hearing in my entire life where I have been so emotionally affected today. I'm riveted here. And I'm trying to figure out how to channel that anger that I have inside right now into positive results and solutions.

So I want the industry to know that, and you can take back to your superiors that I'm very concerned about the issues that have been raised here today and I'm raising that concern in a very reasonable tone of voice, which is very unlike me, as Ms. Lee will assure you. But I want these issues resolved and if they are not within a reasonable time I intend to use all the power of the subpoena, duces tecum, of a personal subpoena, of all the power I have as a legislator to get it resolved. To get it resolved.

We're going to work together and you and I are going to get to know each other very well.

MR. DIXON: And I agree and I'm more than happy to get to know you very well at any time that you desire to do so.

CHAIRMAN TORRES: Thank you.

MR. CLARK HOLLAND: Mr. Senator, my name is Clark Holland. I am one of the people who many of these people have heard about. Very few of them have actually met me. Some of them have spoken to me. I certainly am not going to come up here and try to defend myself but I will say that State Farm remains proud of the effort that it's made in the claim handling.

I realize that there has been a lot of criticism here today. Let me assure you that you are absolutely right when you say that it makes no sense for an
insurance company, any insurance company to dissatisfy a customer. And because it makes no sense I want to assure you that there is another side to this story, that no rational company would do the things that have been accused of State Farm or any other company here today because it simply would lead to their losing valuable customers, and I assure you State Farm values every single one of its policyholders, even the ones who remain unsatisfied with the claim handling to date.

Let me say that State Farm handled approximately 470 total losses to dwellings. Obviously, the largest number by far of any insurance company. To date, State Farm has paid approximately $360 million to its policyholders. An average of $750,000 has been paid to every homeowner who occupied their dwelling at the time of the fire. Those payments, I might add, were not strung out to the last minute. Within 30 days of the fire State Farm had paid approximately $85 million. Within 120 days of the fire State Farm paid out over $200 million to the policyholders in Oakland and Berkeley. Of course, by now that number has risen to over $350 million.

Throughout the handling of the fire claims State Farm has worked closely with the Department of Insurance to be responsive to their requests and responsive to their communications of complaints to State Farm. The company has met with representatives of the Department of Insurance on several occasions to resolve concerns addressed by policyholders. State Farm believes that we have cooperated in an open manner, setting forth all the issues and, in many instances, coming to resolutions that we believe the Department and, in many instances, the policyholders were satisfied with. We will continue to meet with the Department of Insurance either on generalized claim issues and problems or on any specific claim problem that any individual has. We have invited the Department of Insurance where they believe necessary to act as the mediator, however you want to phrase it, to sit down with the policyholder and a representative of State Farm with the claim file so that the specifics of their claim problem could be addressed.

CHAIRMAN TORRES: Under oath?

MR. HOLLAND: By the company? I don't understand.

CHAIRMAN TORRES: The testimony that was given today indicates there is a procedure which a claimant contracts to do, whether they know about it or not upon signing a policy agreement, that they will be subject upon a claim being presented to an examination under oath.

MR. HOLLAND: Certainly the policy, as written, this is the State of California...

CHAIRMAN TORRES: Is this a practice?
MR. HOLLAND: State Farm, in the over 1,100 claims, State Farm has taken, I think, three statements under oath. So it's certainly not a practice of State Farm's. I will tell you that in one instance, and I believe the number three is correct, it's certainly less than five requests for statements under oath, in one instance...

CHAIRMAN TORRES: Who makes the request for a statement under oath?

MR. HOLLAND: The company.

CHAIRMAN TORRES: And the claimant is advised that you are about to enter into a proceeding whereby the parties have been placed under oath?

MR. HOLLAND: Right. The provisions of the examination under oath are part of the California standard form fire policy which you have the power to amend. It's been...

CHAIRMAN TORRES: No, no, it's not true, pal. I'm telling you, I don't have the power to amend it because sometimes -- not your company but maybe other insurance industry representatives in the past have made it very clear what the law is. So it doesn't make any impact on me to tell me what California law says as if the cardinal and all the rabbis and the bishops in the world got together and formed this law.

MR. HOLLAND: I would invite you, Senator, to specifically find out why examinations under oath were taken in any given case.

CHAIRMAN TORRES: No, I'm just concerned that they're taken at all, at all. It would seem to me that the appropriate remedy, counsel, is to procure a statement under penalty of perjury and that is the subject and it ends there and if you have proof then you come up and indict a potential claimant that they lied on their statement.

MR. HOLLAND: The only way that the company can get that information...

CHAIRMAN TORRES: The information is provided to you in a statement. I thought that's what they filled out all this paperwork for.

MR. HOLLAND: Well, we may be talking terminology, Senator.

CHAIRMAN TORRES: No, I think I'm pretty clear as to what I'm talking about and that is that when I'm asked, as I was because I had some flood damage on my home and I was asked to make a statement and to put -- and I don't recall whether there was a claim under the statement saying you do so under penalty of perjury but I submitted that statement and that statement was accepted as part of the deliberation to determine just what I would be owed by the company.

MR. HOLLAND: State Farm does not routinely request people to make any sort of statement under oath whether oral or in writing and it's only in unusual circumstances where a request...

CHAIRMAN TORRES: So tell me what happens. You're my adjuster, my house has
just burned down here in the Oakland Hills and I come to you and you say to me, what?

MR. HOLLAND: Well, let me give you an example...

CHAIRMAN TORRES: No, you say to me, what?

MR. HOLLAND: I don't know. I guess I'm a little confused about what we're talking about.

CHAIRMAN TORRES: All right. Let's say my house is burned down and I come to you and I say this is what happened to my house, this is the value, this is the mortgage, this is what I lost in it. What happens at that point?

MR. HOLLAND: The average company would do two things: One, it would invite you to supply information about the cost to rebuild your house, information about the details of the house so that the insurance company could also...

CHAIRMAN TORRES: It includes the contents.

MR. HOLLAND: Sure. But let me tell you that State Farm, immediately after the fire, instead of requesting any inventories at all paid every single one of its policyholders who suffered total losses the full stated policy limit for personal property without one piece of paper. Just a check. Hundred thousand, two hundred thousand, whatever it was, no questions asked. That was the amount that they had paid a premium for. That was the amount of their policy limit and it was an amount, by the way, that the policyholder could, if they wanted, increase at an increased expense.

Now, in May of 1992 when State Farm recognized that many policyholders felt that that amount of the payment that had already been made, no questions asked, was too low Mr. Dorset invited State Farm policyholders to submit an inventory if they believed their loss was actually higher than the full face limit had been paid.

CHAIRMAN TORRES: Now, once that submission of inventory occurred, what variables would come into play to require in those three cases that you articulated a proceeding whereby a claimant would be put under oath?

MR. HOLLAND: Well, you know, only one case...

CHAIRMAN TORRES: In the criminal law it's called probable cause.

MR. HOLLAND: In only one instance did State Farm take a statement under oath where it suspected fraud on personal property, and in that instance the policyholder submitted inventories for two houses that State Farm learned had no furniture in them whatsoever. The policyholder at the statement under oath admitted that and we submitted that claim to the Department of Insurance Fraud Bureau as we are required to do. So in the only case that State Farm took an examination under oath because of suspected fraud for personal property, that claim was denied, no payment was made...
CHAIRMAN TORRES: But you told me you took three but not more than five.

MR. HOLLAND: ...and, may I say -- because we might take them on other issues.

CHAIRMAN TORRES: Well, that's what I want to know.

MR. HOLLAND: You are asking about personal property. And let me say that because that statement under oath was taken, State Farm did not pay the over $200,000 that was being asked of it and did not pass along to the consumers of California the extra premium that it would have had to charge if it had simply handed that person a check for the $200,000. So I think it's very unfair to suggest that State Farm or any other company is randomly abusing the examination under oath process and that's why I would invite you to...

CHAIRMAN TORRES: Well, you've given me one example where it was not abused. What are the other examples that you cited?

MR. HOLLAND: In only a couple of instances has State Farm requested...

CHAIRMAN TORRES: Three but not more than five, you stated.

MR. HOLLAND: That's right. To get more information about the specific scope of the house because we felt that State Farm was not being provided the detail that it needed to evaluate the house that was there.

CHAIRMAN TORRES: And that was sufficient to order an examination under oath?

MR. HOLLAND: Sure, because the policyholder was effectively refusing to provide us the information we needed to determine what their house looked like.

CHAIRMAN TORRES: And so what would the proceeding under oath procure for you that would not have been procured by a simple request?

MR. HOLLAND: Because the policyholder wouldn't respond to the simple request.

CHAIRMAN TORRES: And so the policyholder was issued a subpoena by you?

MR. HOLLAND: It's not a subpoena. We just send them a letter and say, you know, come to the statement under oath to ask questions about whatever the issues happen to be.

CHAIRMAN TORRES: So why couldn't a meeting have taken place without putting the claimant under oath?

MR. HOLLAND: It could have and, in fact, in one instance where State Farm requested a statement under oath because the policyholder wasn't providing the information, we actually went to a meeting with the Department of Insurance to try to remedy this dispute and we said, Look, all we want them to do is to tell us the details about their house. It doesn't have to be under oath but it was the only process we had under the policy to get the information. We suggested to the Department that perhaps the policyholder would simply agree to a recorded
statement and the Department talked to the policyholder, the policyholder agreed and that problem was resolved.

So, again, I think that -- I can't speak to other companies...

CHAIRMAN TORRES: Is it a common practice within the industry to hold these hearings?

MR. HOLLAND: No, it's not. If you looked at the total claims handled by any company, the number of statements under oath would be less than 1 percent. I'm confident of that. And, in fact, in the fire cases, statements under oath have not been taken at any greater percentage than in any normal circumstance.

So, again, I can't speak to any other company other than State Farm but I can assure this panel that this process is not being abused and I would certainly invite you to look at every single claim. Again, you have to exercise your power to get them but we certainly provided them all to...

ASSEMBLYMEMBER LEE: I'm sure the Chairman will.

MR. HOLLAND: And that's fine. We can't hand them over because the law requires us to guarantee the privacy of our policyholders. We have nothing to hide.

The process of evaluating the claims in the Oakland Hills fire, we concede was a tortuous one because there was nothing left, and therefore we had to start from scratch. In the normal fire claims there's still some studs, there's still a roof, there's still something to go by to identify. So it was a longer process than normal. That's why State Farm immediately and in advance paid an entire twelve months of additional living expenses, not piecemealed monthly or quarterly or any other way but paid an entire year's worth in advance so the policyholder could budget that money and utilize it as they saw fit. When it became clear that the year was not sufficient State Farm agreed to go a second year and pay on a monthly basis the actual expenses that were being incurred by the policyholders. So on additional living expenses those claims were fully paid. The first year was based on a projection and then the insured could take that money and, again, budget it as they saw fit. State Farm policy does limit additional living expenses to twelve months. The company extended that by another twelve months.

ASSEMBLYMEMBER LEE: Now, let me just ask you if, in fact, another twelve months is required, what's the procedure to obtain that?

MR. HOLLAND: State Farm has determined that given its policy, given what was paid for in the premiums that they felt that two years was fair and reasonable and that was the determination that was made.

ASSEMBLYMEMBER LEE: But what I'm saying is that after this hearing today we've heard that it may not be long enough. So I'm just asking what provisions,
if any, are there to extend it beyond two years?

MR. HOLLAND: At this point State Farm has taken the position that two years is as much as can be extended given the number of people that have, in fact, rebuilt their homes.

ASSEMBLYMEMBER LEE: Excuse me, I think Councilmember Jordan has a question she'd like to ask.

COUNCILMEMBER JORDAN: You know, everything you say sounds very rational and it's very hard to obviously bring together the stories, some of the stories that we've heard and your response. Now, I know you can't speak about specific issues but we did hear testimony from people today who claimed that they had basically a straightforward case, and yet, the incentive seems to be not to settle with them. The incentive seems to be to slow things down precisely so that they feel squeezed to make settlements on your terms rather on what they feel to be justified terms. And I guess one of my concerns is this is the whole issue of incentive/disincentive. How do you create an incentive for the insurance company to want to settle? And that would be one of the things I would be asking the Senator to look at in his committee.

MR. HOLLAND: And I think I can speak to that. State Farm, because it's extended the twelve months to a second twelve months, obviously had no incentive not to want to get every one of these people back into their homes within a year so it didn't have to pay that second year's worth of additional living expense. Every month that those people are out of their homes for that first twelve months was another month's worth of additional living expenses that State Farm had to pay. There is absolutely no incentive to keep these people out of their homes. Absolutely none. State Farm paid them a full year in advance because we knew, given the circumstances, that construction in that time frame wasn't possible.

Let me also say that in the normal circumstance when one house burns down there are no access problems, there is only one permit that the City of Oakland has to deal with and it's not that hard. The actual construction time for most of these homes should not exceed twelve months. It was three to four months before the city's debris removal program, which was a wonderful program by the way, it worked, was able to clear away the debris so that even modest beginnings could go on. I think it's unfair to suggest that the insurance industry had any incentive at all to keep these people out of their houses. It didn't.

COUNCILMEMBER JORDAN: We have now a group of people, unfortunately a fairly large group of people who still have not settled. So there needs to be an incentive to close the books. Obviously we're trying to create that incentive here by having that hearing. But when you have people stand before you and say,
we had our building permit, we were ready to go, we thought we had a clear case, and yet, what we've done is had nothing but footdragging on the part of our insurance company, then something is wrong with the system. And you say there's no incentive but there clearly is the issue of settlement and the settlement is obviously larger than the ongoing expenses, particularly when we know that there is a time limit to those expenses.

**MR. HOLLAND:** But it's simply not. The industry doesn't have any interest in having hearings like this that portray it as bad guys.

**COUNCILMEMBER JORDAN:** Oh, I'm sure that's true.

**ASSEMBLYMEMBER LEE:** Wait a minute. If there's no incentive to settle, if, in fact, only a small percentage, ten or fifteen percent of the victims of the firestorm have actually settled and rebuilt, and if, in fact, two years is the maximum that is allowed, based on what we heard this morning one would conclude that two years is not enough!

**MR. HOLLAND:** Many of these homeowners obviously have rebuilt and you can look at the hills and see that there are people back in. So for many of them, two years was plenty. State Farm has had one policyholder unfortunately who rebuilt his house within one year. It burnt down again and he's already rebuilt again. That was a double tragedy but there he is twice rebuilt. So those stories also exist.

What I'm saying is that I think if you are interested in detailed explanations that are responsive to the concerns that were raised by the individuals, we would invite you to examine those individually. That's the only way that we can explain.

**COUNCILMEMBER JORDAN:** Are you open to having an audit? A number of people spoke about having an audit.

**MR. HOLLAND:** I don't know what that means but we've had the Department of Insurance come look at hundreds of files soon after the Commissioner mentioned the market conduct survey, and approximately six to ten Department of Insurance claim examiners came in to State Farm, Farmers and other companies and looked at hundreds of files. So we've been through that before and we certainly stand ready to show the Department of Insurance or any other authorized body the details of those individual claims. We think it's there and we're prepared to show it.

**COUNCILMEMBER JORDAN:** I have one other question. Today, when you meet with people who are renewing their insurance, when they sign up for complete replacement does that, today, include code upgrade?

**MR. HOLLAND:** If they want to buy it it's there. State Farm's had code upgrade coverage available since before the fire and as a result of Senator
Petris' bill there is a check-off sheet that shows them, do you want it, yes or no. So it's there, it's available at the premium...

COUNCILMEMBER JORDAN: But so there still exists the possibility of people feeling that they're getting complete replacement without the code upgrade.

MR. HOLLAND: The only way for that to happen would be for them to specifically write the answer "no" in the box saying that they didn't want that coverage. So they would have to elect not to buy it but it's not mandatory.

COUNCILMEMBER JORDAN: So before that that box wasn't there.

MR. HOLLAND: That's right.

COUNCILMEMBER JORDAN: Now it's more clearly stated.

MR. HOLLAND: As a result of that bill it's there and it's available, that coverage is available.

MR. DIXON: On that I think the important thing, as Mr. Holland explained, is that we can kind of extrapolate for an extended period of time as to why certain things are the way they are and I'm sure you do understand is that we are under restraint and the way for you to ascertain specifically point by point on the allegations that were made is to get a release from that particular person and let us have the opportunity to present that file to you.

ASSEMBLYMEMBER LEE: Yeah, we understand that but there's some, I think, general issues, again a few more general issues that the committee would like to raise. One has to do with the issue of the panel experts determining the comparable values, the comps, appraising the property for whatever State Farm thinks it's worth versus professional appraisers doing that. We heard earlier that perhaps the criteria that the panel evidently is using is not as specific or as unique to the Oakland Hills topography as would be warranted. That's a general question I'm just asking in terms of how you do your comps.

MR. HOLLAND: Are you talking about the market value of the house or the replacement cost?

ASSEMBLYMEMBER LEE: The replacement cost.

MR. HOLLAND: I don't know -- State Farm has no, quote, panel of experts, so perhaps that was directed at some other company.

ASSEMBLYMEMBER LEE: Okay, how does State Farm determine that?

MR. HOLLAND: Initially State Farm develops a computerized estimate based upon local prices and works with the policyholder's contractor to hopefully come to an agreement. Where that agreement isn't possible then State Farm would request a competitive bid from a contractor. It's not a, quote, panel, it's just contractors that State Farm has requested who are building or have built in the East Bay Hills in order to provide a competitive bid to see where it's missed the mark. And that process has worked in most instances to resolve any
disputes.

CHAIRMAN TORRES: Are you finished? I'd like to hear from the other companies as well who are here.

MR. HOLLAND: There appears to be only one other.

MR. DIXON: Senator Torres, if I may be excused. I do have a previous engagement that I have to make.

MR. BILL Gausewitz: Mr. Chairman and members, Bill Gausewitz representing Farmers Insurance. We are under the same constraints as State Farm with respect to talking about any individual claims, but likewise, if members of the panel wish to discuss any individual claims involving Farmers Insurance we would be happy to do that subject to a release by the policyholder from our legal obligations under the privacy laws.

CHAIRMAN TORRES: How many claimants did you have in this fire?

MR. Gausewitz: We had a total of 448 claims: 74 auto claims, 374 non-auto claims. Of those, all 74 auto claims were total losses, 171 of the non-auto claims were total losses. Two hundred and three of the non-auto claims were partial losses. All 74 of the auto claims have been fully compensated. All 203 of the partial claims have been fully compensated and 138 of the 171 total non-auto claims, total loss non-auto claims have been fully compensated. We currently have 33 remaining open files.

CHAIRMAN TORRES: Why?

MR. Gausewitz: At this point I also brought with me today John Lynch, who is our regional manager of our Pleasanton region, and Wes Whitamore, who is the regional claims manager, and if you want specifics I'd prefer to refer to them.

CHAIRMAN TORRES: I don't want to get into specifics.

MR. Gausewitz: In general we have 11 claims which have not yet begun construction, we have 6 claims in which there is still disagreement regarding the contents coverage, we have 9 claims in which we have supplemental claims that have been filed although we have paid replacement cost. We have 7 claims where we still have open issues relating to additional living expenses, move-back expenses or landscaping, and we have 5 claims where there is a potential assessment in connection with a condominium development. That total adds up to more than 33 claims because some of them -- that's a total of 38, I believe -- because some of them have open claims under more than one coverage. But it's a total of 33 claimants who still have open files.

Beyond that, many of the issues that were raised today relate to policies that Farmers does not follow. I'm happy to answer any question or refer any specific questions to Farmers' policies to Mr. Lynch or Mr. Whitamore. I can bring them up. My preference would be if it facilitates the purposes of the
committee to draft a letter for the formal records of this hearing which would
give you all of these responses on our total loss statistics, some more
specifics on the open files and which also addresses some of the issues that
were raised by the consumer testimony this morning and how Farmers views those
issues.

I'd also like to point out that we have worked cooperatively in the past
with respect to drafting legislative solutions and responses to this problem.
We supported the enactment of SB 1854, the Petris disclosure bill, and you have
my commitment that we will work with you in terms of any future legislative
developments that arise out of your hearings to assure that those measures are
crafted well and truly meet the needs of the consumers.

CHAIRMAN TORRES: Ms. Lee.

ASSEMBLYMEMBER LEE: Do you put your claimants under oath and, if so, do you
know approximately how many have been placed under oath?

MR. Gausewitz: I am informed we have not requested any statements under
oath.

If it suits your purposes I would like to submit a letter later for the
record.

CHAIRMAN TORRES: Yes, and if you can do so before our next hearing.

MR. Gausewitz: Certainly. I would anticipate doing it by the beginning of
next week.

COUNCILMEMBER JORDAN: How many people of all the cases that you mentioned
will be impacted by the statute of limitations in terms of...

MR. Gausewitz: In terms of additional living expenses?

COUNCILMEMBER JORDAN: Additional living expenses.

MR. Gausewitz: We have had seven people who are currently on additional
living expenses who have been notified of the termination at the two-year
anniversary of the loss. Of those, four have requested that the additional
living expenses be extended and we will be reviewing those on a case-by-case
basis.

COUNCILMEMBER JORDAN: So Farmers is open to continuing the living expenses?

MR. Gausewitz: If the need for additional living expenses is as a result of
delays that were caused by Farmers then we would certainly be open to extending
the additional living expenses. However, for example, we have more than one
claim where people simply have not decided what they want to do and that's
certainly not the typical claim. But in a case like that where the only thing
that we can do is wait for somebody to make up their mind, and we have been
ready to settle, we don't think it's appropriate to extend additional living
expenses.
COUNCILMEMBER JORDAN: But in cases where folks can point out that delays in Farmers reviewing their problems have caused the delay you're going to be open to negotiation.

MR. Gausewitz: We will be reviewing requests to extend additional living expenses beyond the two years on a case-by-case basis and if the case is justified that the need for additional living expense occurs because of failure on the part of Farmers then, yes. I can't say absolutely that we will grant them but we are certainly open to that and we would be inclined to.

COUNCILMEMBER JORDAN: And State Farm, can you make that statement as well?

MR. HOLLAND: In discussions with the Department of Insurance we've informed them that we intend to stand by the two-year deadline but in any individual case where the policyholder believes that the delay has been State Farm, State Farm is certainly going to exam that and make appropriate consideration if, in fact, the delay was caused by State Farm.

COUNCILMEMBER JORDAN: We have heard testimony here from a number of people who seem very capable of documenting that it was a problem with the internal machinations of State Farm rather than their unwillingness to settle, as Farmers has indicated. It would seem to me it would be important to let folks know that yes, you are going to take a good look at your own internal processes and the impact that the slowness of proceeding lays with you all rather than with the policyholder.

MR. HOLLAND: And again, I can only say that as someone said before, there seems to be a presumption of guilt and I think that it's unfair to presume the same presumption on the insurance company. Each individual claim will be evaluated to determine if that is, in fact, the case.

COUNCILMEMBER JORDAN: So you say you're open to an outside auditor and you are open to an impartial person or persons designated, perhaps maybe even by the Senator or -- you know, is it possible to get an auditor, someone who is impartial who can come in and work on these cases?

MR. HOLLAND: Well, I guess the answer is we believe the Department of Insurance is that impartial auditor. Fortunately, I don't represent the Department. I'm sure they would be happy to respond to that. We believe that that's their...

CHAIRMAN TORRES: How many outstanding claims does State Farm have at this point?

MR. HOLLAND: Well, if you mean how many are open today, approximately....

CHAIRMAN TORRES: How many have not been resolved and payment and people are happy?

MR. HOLLAND: I can't possibly answer that. We do not require a statement...
of happiness to close a claim. I can tell you how many open claims there are.

CHAIRMAN TORRES: That's what I thought I was saying.

MR. HOLLAND: There are 350 claims that are open.

CHAIRMAN TORRES: Still open, not resolved.

MR. HOLLAND: No. Those policyholders may be completely satisfied and they are simply -- we are waiting for them to do so.

CHAIRMAN TORRES: Counsel, I think we need to get on the record then the definitions of words because I think that's very confusing.

MR. HOLLAND: I agree.

CHAIRMAN TORRES: Okay. So how do you determine whether -- to me, a case is closed when the payment has been made, construction has been achieved and people are making breakfast in their home. That's, to me, the case is closed. Is that the same way you define it?

MR. HOLLAND: State Farm effectively defines closed in the same way. Yes, that's right.

CHAIRMAN TORRES: All right. How many cases are not closed?

MR. HOLLAND: Of the 1,200 odd claims State Farm is maintaining open, 350 claim files where people have some benefits remaining of some type. That could be additional living expenses, personal property or remaining replacement costs for their building.

CHAIRMAN TORRES: Of those 350 claims that are still open under your definition, how many of those -- and this may not be a totally fair question because I don't know if you have the data in front of you -- but how many of those claims do you think can be resolved, or rather, closed within 30 days, 60 days, 90 days?

MR. HOLLAND: The problem with that is that State Farm, as soon as somebody starts their construction of their new home, State Farm releases the entire amount of the replacement cost benefits. They don't piecemeal it out as construction progresses. Once the contract is cut and the permit is issued and somebody digs in the ground all of that money is out there. But State Farm doesn't necessarily close its file because during construction different things happen. State Farm does not follow the course of construction because it's already paid all of its money. So we're not calling up saying how far did you get last week or this week. So there are no statistics available.

I can tell you that, for example, there are approximately 60 people who have submitted personal property inventories for the amounts over and above the policy limits that the company's already paid and State Farm is waiting for documentation of those. In the meantime, people could be in the process of actually replacing that personal property and as they do replacement cost
benefits are paid out. Those claims would remain open because State Farm would want to -- just doesn't arbitrarily close it because people haven't called or written in a specified period.

CHAIRMAN TORRES: So the Councilmember's request to have an independent audit would not be opposed by State Farm at this point.

MR. HOLLAND: Again, State Farm has been ready, willing and able to have its claim files reviewed and the Department of Insurance has done so.

CHAIRMAN TORRES: Well, I appreciate the courage in your being here today. I can't say the same thing for the other folks who aren't here representing other companies, and to Farmers as well. Is there any other insurance company represented here today? No? Any spies for insurance companies here?

CHAIRMAN TORRES: I do appreciate you gentlemen making the time to be here and to get at some of these issues.

MR. HOLLAND: And like Farmers we will present a more detailed report that is responsive to some of the issues, because obviously, it helps to have it in writing for you to review.

CHAIRMAN TORRES: Right. And we'll get that on November 18th.

MR. HOLLAND: Prior to that.

MR. KEN COOLEY: Mr. Chairman, members of the committee, my name is Kenneth Cooley. I, too, work for State Farm and I'm an attorney in their corporate law department. I'm not a person involved in the claims process as much as someone who tries to work within the public policy process. On behalf of Glenn Dorset who was referred to earlier, he is the Regional Vice President for our Northern California region ultimately responsible for how we behave ourselves with respect to our policyholders.

State Farm's posture through this process has been to attend Commissioner Garamendi's hearings, to provide testimony. As Jack Dixon noted, Glenn appeared personally at the hearing at the Claremont Hotel last year. He was unable to attend today. We have participated in meetings with the Department of Insurance. We have had them in our offices conducting claims surveys.

We have tried to approach this on the basis that State Farm did face a dramatic management problem in terms of how within our usual claims service mechanism do you absorb the trauma of 1,100 claims and try to provide uniform procedures and way of dealing with claims people. The Commissioner focused attention on aspects of that. Our traditional response to a disaster is to fly people in so that the local claims service network is not overwhelmed in the midst of a disaster. We've found, as the Commissioner pointed out, that as they came and went people were experiencing turmoil in who their adjuster was. We totally revamped that system. The Commissioner emphasized the need for greater
communication. There was an effort and there's documentation, I think, that's been provided which illustrates the impact of that point of view on the Commissioner's part.

Ultimately I think we see in this hearing not just something that sheds light on the complexity of dealing with this trauma from all parties' standpoint including State Farm and our insureds and those of other insureds but also the questions you've raised, Mr. Chairman, about kind of what does this say about the adequacy of the insurance mechanism and the future of where it would go. Those are complicated issues. And we also view ourselves as very much wanting to be engaged in that process. So we recognize that that's what this hearing's about. Appreciate the opportunity to be here.

CHAIRMAN TORRES: Thank you very much, Mr. Cooley.

ASSEMBLYMEMBER LEE: Mr. Chairman, I want to also say thank you to the insurance companies which are represented here, State Farm and Farmers. I just say I worry and I'm shocked that the other companies aren't here. I mean, these are people whose lives they are holding in their hands. So your presence here is commendable.

And I want to just say we need to go beyond this hearing and as we begin to address some of these issues which you heard today legislatively that I would hope that what Assemblyman Bates has indicated that we're faced with in the Legislature that we're not faced with this stonewalling or attempting to kill bills that would actually help rectify some of this. So I would urge you to work with us to try to get some of these bills in shape so that the insurance companies will be in support of some of the efforts that we will be mounting as a result of this hearing. And I think that, in essence, would be the proof in the pudding.

MR. HOLLAND: And State Farm remains committed to do that.

CHAIRMAN TORRES: That was a rhetorical statement. It wasn't a question.

COUNCILMEMBER JORDAN: It has been quite a learning experience this morning. As a council person representing this area I have to say most of our energy in the hills has to do with rebuilding. We've got lots of new issues and problems that we deal with from view preservation to the size of the building to keeping the streets clean so that kids can now walk back to school.

I am very, very appreciative of your leadership, Senator, especially after having the privilege of sitting up here with you. I've learned a great deal and I'm hoping that for those of you who are interested in staying in Oakland, we're going to get you your house built real soon and for those of you who are not staying in Oakland that we solve the insurance problems.

So I want to thank Assemblywoman Barbara Lee who is always here when we need
her and Tom Bates and the Mayor as well for all the support and the
Commissioner. My office stands ready to help you in terms of location, whatever
else is needed, but it's really at your level that some of these things will be
decided and we're going to do everything we can to give you the support.

And thanks, everybody, for taking the time off. I just have to say that the
amount of time that people have put into this is kind of beyond the scope even
of understanding, that there has been such amazing disruption and dislocation in
people's lives and just coming and spending the whole day, listening to this
testimony, trying to make a difference not only for themselves but for a whole
community and perhaps even for the state and the nation. I guess that's one of
the things that I came away with today is the potential impact of all of this on
a nation. And hopefully, that will be the positive aspect that comes that when
we move into crisis some of these problems will have been solved. So thank you
very much.

CHAIRMAN TORRES: Let's recap if we can, and if you want to take notes let's
do it so in case I forget something on the 18th you'll remind me.

I appreciate everyone who has served on this panel today. It's the way I
usually conduct hearings. I don't limit it to Senators to sit up here but to
members of the Legislature as well as to local officials and I appreciate the
time that you folks took in being here as well as Tom Bates and the Supervisor
who was here earlier.

All right, let's go down the list.

We talked about code upgrades and how to change the law on that, and we're
going to look at that and we'll come back with some language on the 18th so we
can look at it more carefully.

Contractors has been a consistent problem in California. Just because a
contractor is licensed means nothing in this state from my perspective. That's
a personal opinion. We need to look at how that criteria is developed in
respect to contractors.

Appraisers. My son started college. Whew, boy, I had to refinance my house
this month and dealing with appraisers was a mess for me, trying to get them in
or out or whatever. We need to look at appraisers and I certainly, for my
perspective, know what that's all about, and what kind of appraisers are doing,
a conflict of interest code for appraisers and others involved in the process
was mentioned today. We need to talk about that.

What is guaranteed replacement? how does one define that? was an issue that
was an issue that
was raised here and we need to get at the heart of that.

I was concerned about once you think you've signed a contract all of a
sudden there are new guidelines that are ancillary to that contract. Is that
legal? is it not? what are the ramifications? can we get a sense of certainty on what is in a contract once you sign it and obviously a certainty of having the copy in front of you? as many of the witnesses testified.

Good manners. I don't know how else to say it. How people treat each other. I think we need to say something about that. There is stress on both sides of the table between insurance and claimant, I'm sure, but I've been at the other end of that without identifying who I am. It's amazing how you get treated differently. All of a sudden they know you're a senator, ooh, it's a different story. How do people get treated, the average citizen out there, we need to look at very carefully. I guess it's where California has been moving. We don't treat each other with respect anymore in many cases. What does that mean from a good business sense? What does that mean from just a good decency sense in how we treat each other as human beings?

Can we get to the point of restricting the number of adjusters that are assigned to a case? is an issue that was raised that we need to get at. How accessible is the data that is there in respect to a previous adjuster's diary that I heard about earlier?

These are all issues that have been resolved in the criminal law years ago and now you almost feel like you have to have a Miranda warning on some of these issues in respect to just filing a simple claim. Why is it so complex? How do we make it easier? How do we make it more simple for the policyholder?

Maybe we need to think about rather than allowing these kinds of interrogatories or depositions to take place that maybe we just really need to count on people's good faith in submitting information or documents that they sign under penalty of perjury. Let the burden of proof go to the insurance company rather than the burden of proof having to go to the claimant as to whether they're telling the truth. I mean, all those are variables that we need to look at.

It reminds me of the problem we have with firefighters. You know, firefighters have the highest cancer rate in California and the Canadians found the same thing there, and the reason why was because they're always in the front line putting out the toxic spills lately in the last ten to fifteen years. Up until we changed the law with a bill that I had, and it educated me, was that the widow had to prove that the toxic chemical was approximate cause of the cancer in the firefighter. So what we did was shifted the burden. There's no way a widow can go to a world health organization and get the experts and the data to do that.

We know where the resources are. Rightly or wrongly the resources are with the insurance companies, they're not with the claimant, unless the woman who had
settled for $200,000 and lost $200,000 is the rule. That is not; that's the exception. How do we make that a little more fair within the process? And I think that the responsible insurance companies that are here today, I don't think they're going to be opposed to that approach and we need to look at that.

And lastly, the toughest problem, and we're going to be doing hearings on the health care plan as well -- Ms. Lee and Ms. Jordan, you're welcome to join us -- and that goes to the issue of how you begin to have an advocate or at least an ombudsman involved in the process: Whether it's a solicitor, which I've been thinking about, as a civil remedy, as a civil solicitor, a claimant in a disaster kind of situation, and maybe make it only available in those kinds of situations so we cut the costs down to the state. Be available so that the individual claimant on top of all the agony has to go out and hire a lawyer.

And, Ms. Reed, you just floored me and broke my heart when you talked about the money that you've already had to spend just in dealing with that issue. Did they pay you modeling, screen actors guild charges for your front cover edition? You should have been paid for that.

So do we look at the concept of a solicitor to make that happen?

Now, all of these are suggestions that come after the fact. I can't make you whole emotionally. There's no way I can do that and I don't promise to and I don't promise to make you whole down the road either. All we can do is promise to work together and try to arrange these meetings that are convenient for those of you that do work so you can come without having to take off work.

So let's work for the 18th of November. We can conduct a little more of a session. Ina, I think I've talked to you in terms of getting us a place that's not as hierarchical as the state building or maybe something that's more comfortable we can sit around a table as much as possible and actually have a good working session and figure out where we are, have some of these insurance folks there. I think they'll be willing to show up. Figure out where there is some common ground here.

I want a subscription to Phoenix. I'm tired of borrowing Nick Petris' copy on the Floor all the time. It's a good publication.

Thank you very much.

ASSEMBLYMEMBER LEE: Senator Torres, let me just say to you once again, thank you very much for being here and holding this hearing. You know, I have the wonderful opportunity to work with you on a daily basis and it's not often that people in Oakland and Berkeley get a chance to meet our leaders from the south. And I just want to say thank you very much and we look forward to having you here again.
Senator Torres and honorable members of the committee, good morning. I want to thank you for the opportunity to appear before this committee and address the actions the Department of Insurance took in the aftermath of the Oakland firestorm and what we have learned during the last two years.

This disaster is recognized as the worst urban wildfire in our nation’s history. It killed 25 residents, destroyed more than 3,000 homes and, according to the data we have collected, cost nearly 1.9 billion dollars in insured losses.

While some insurance companies dealt fairly and squarely with their policyholders when it came to adjusting claims, others engaged in outrageous and despicable practices which enraged homeowners and brought the full weight of the department down on them. In one instance, we levied the largest monetary penalty in the department’s history -- $1 million -- on an insurance company after they were charged by
us with hundreds of violations.

By sharing the lessons the department has learned from this disaster, we hope that permanent changes will occur in the way in which homeowners insurance is marketed, serviced and regulated.

Let me first briefly cover the actions the department took following the fire:

On the day of the fire, we established contact with the Federal Emergency Management Agency and the state Office of Emergency Services to exchange information and monitor developments. The following day, we placed key personnel at information and assistance centers in the disaster area to provide victims with fact sheets and guidance on insurance matters, such as how to get in touch with their company and make a claim. Within a short period after the fire we counseled over 2,000 individuals at these centers.

That day I personally toured the fire area and spoke with
many residents in front of their charred and destroyed homes. For me, this disaster is not an abstraction, but a very real memory of walking through whole neighborhoods which had been completely wiped out.

To get help to victims fast, we widely distributed our toll free 800 hotline in the assistance centers and through the news media. Within a matter of weeks, we received 1,500 calls from victims seeking help.

Through the end of 1991 and the beginning of 1992, representatives of the department met with victims and their insurance companies to provide assistance and speed the claims process. At a single meeting in January, our staffers met with 400 Oakland and Berkeley residents.

But by the spring, it had become clear that many of these victims were not receiving the kind of help they had been promised when their agents had initially sold them their policies.
A survey we published at that time revealed that the primary problem faced by victims was the lack of adequate insurance coverage. Homeowners' limits were substantially below the cost of rebuilding dwellings and replacing contents. At a community meeting here 18 months ago, I promised to work on behalf of consumers in their effort to gain the full replacement cost coverage necessary to rebuild their homes and lives. I said we'd investigate reports of insurance company wrongdoing and take enforcement action against companies in violation of the law, and that we'd support legislation requiring insurers to offer and clearly explain the meaning of "guaranteed replacement cost."

Following that meeting, I met with a number of insurance company executives to discuss the concern that residents were being victimized a second time by their companies. Initially, only a couple companies chose to fully cover policyholders irrespective of policy limits. But that number was to grow
substantially over time.

I ordered the department to initiate market conduct examinations on five major companies alleged by policyholders to have acted improperly, one of them being the company that was eventually fined $1 million. I also asked all insurance companies to report to me on their efforts to resolve outstanding issues to the satisfaction of their customers.

At an investigatory hearing I called in May, I set July 20th as a deadline for claims settlement and advised companies they would have to explain any claims had not been resolved.

By that deadline we began to see some results. While the companies reported that 32% of total loss claims were still unresolved, they also stated that they had upgraded coverages or reformed contracts to give policyholders an additional $151 million in value.

In September, we charged Allstate Insurance Company and eight of its agents with 153 underwriting and claims
handling violations. We alleged that the agents falsely misrepresented policy coverages to 15 policyholders and that the company failed to properly handle the claims of 10 other policyholders.

Three months later, Allstate paid a $1 million monetary assessment to settle these charges.

In December, we published a second survey taken on the first anniversary of the fire that showed considerable improvement by the companies in adjusting claims. By then, the companies reported that they had provided to policyholders reformed contracts and upgraded coverages worth $274 million. The number of unresolved total loss claims was reported at 8%.

Most recently, in a survey that was taken in April and is being released now for the first time, insurers are reporting that only 3% of total loss claims are unresolved, and that upgrades and reformed contracts have given policyholders an additional $329 million in value.
Now, I realize that many policyholders may view these insurance company-provided statistics with some skepticism. I understand that an informal survey of 100 policyholders puts the unresolved claims total at around 20%. Our department has worked closely with policyholder groups and I would be very interested to see this and any other statistical information they have gathered.

As part of our effort to focus the energy of these groups into real and lasting change, it is our intention to appoint one of their representatives to the insurance agent training curriculum advisory board. I believe their inclusion on this panel will greatly improve the training that agents receive.

What have we learned from our experiences and what can consumers, insurance companies and government do to improve the way in which insurance is bought, sold and regulated?

First, for consumers, when buying your policy, know what kinds of coverage are available and then decide what you want.
Be a smart consumer, and don't leave all the decisions to your agent. Many firestorm victims did just that, and paid a price for it.

When shopping around, call the Department of Insurance toll free hotline. We can provide you with information on your agent, company and the policy you may be considering. The Department can also provide you with an annual survey of the complaint rankings of the 50 biggest insurance companies.

For homeowners, a key decision is whether to buy "replacement cost" insurance or "guaranteed replacement" cost coverage. "Guaranteed replacement" will provide for the rebuilding or replacement of the dwelling you lost, no matter what the cost, and even if it is higher than the policy limits. However, "Replacement cost" -- at a maximum -- will only cover you for the declared value of your home.

But even the term "guaranteed replacement" can carry with it certain hooks. For example, it may not cover costs associated
with the changes in the building code since you purchased your house. And while the disclosure of such extra coverage is now required by law, you should inquire about it specifically.

The contents of a home are frequently covered up to a maximum percentage of the dwelling's value. If you have expensive furnishings -- or if you buy expensive items during the course of a policy, be sure to upgrade your policy accordingly. Again, the added premium cost will be minimal, but in a complete loss, you will be glad you purchased it.

In the event that you must file a claim there are a number of things you can do to protect yourself and demonstrate to your company that you know what you're doing. First, ask for written guidelines from your insurance company claims adjuster. Be sure to keep a log of phone calls and copies of all correspondence, and importantly, organize your receipts and other documents to ensure quick retrieval.

The Department of Insurance can provide you with a copy
of our new regulations for claims settlement. Under these new rules, companies must provide policyholders with claims forms, instructions and assistance within 15 days of a notice of claim. After returning the forms, companies then have 40 days in which to accept the claim, or explain why they have not done so. These serve to protect policyholders from footdragging, and are the toughest standards in the nation.

Finally, if you are considering hiring a public adjuster to handle the claim on your behalf, you may want to call the department to check out his or her license status.

To summarize for consumers: first, know what kind of coverage is available and what kind you need; second, shop around for the best price and the best service from a licensed company; and third, when filing a claim, know your rights and keep well-organized.

For insurers, the lessons of the firestorm are many. Though they may not like hearing it from me, this advice is
meant to be constructive and to create a better relationship between them and the customers they serve.

First, practice good underwriting. Review your underwriting guidelines to ensure that they fit all circumstances. Be sure that your agents are properly trained to apply the guidelines. For example, custom homes with unique features that existed in the Oakland Hills should have been underwritten differently from tract homes on flat lots. Be sure that the guidelines reflect the real costs of rebuilding, and that limits on replacing contents adequately reflect the value of the contents themselves.

Second, take more responsibility in the marketing of policies. Increasingly, the courts are holding agents more accountable for negligent misrepresentations and failures to disclose information. Tell customers in a clear way what a policy does and does not cover, and how gaps in coverages can be remedied with additional insurance. Code upgrade coverage,
which I mentioned earlier, is just one example. Today, firestorm victims who believed that “guaranteed replacement cost” meant just that are finding themselves having to come up with thousands of dollars to pour their foundations.

Third, handle claims as though the scrutiny of the whole world is upon you. In the case of the Oakland Fire, it was. But unfortunately, when a single home burns down, the owners are left to fend for themselves. Policyholders had strength in numbers here in Oakland, and used it effectively to recover full benefits. But companies should not and cannot nickel and dime their policyholders when it comes to claims-paying time. Companies should have learned the lesson that in times of catastrophic losses, policyholders will band together to seek full coverage, and not just what a company chooses to dish out.

In the case of a major disaster, be prepared with already-established operating guidelines for just such an emergency. In Oakland, insurance companies enraged homeowners by rotating
adjusters in and out of the area, often every 30 days. The adjusters were often unprepared and unfamiliar with the claims they were assigned to handle. This in turn angered policyholders, who believed -- rightfully -- that they were getting the runaround.

Our new regulations now require companies to provide claimants with written information about what documents will be needed to receive reimbursement. Previously, the rules were not spelled out, and adjusters, who were handling too many claims to begin with, failed to provide this information. Additionally, adjusters must be adequately trained, and be provided with continuing training, to handle all losses.

Take responsibility for hiring and paying for any necessary experts to adjust claims, but do so in consultation with the claimants. Importantly, construction analysts who are not ready, willing and able to build a home should not be relied upon to set the cost of rebuilding. It is unfair to require a
claimant to abide by costs projected by an analyst, especially in a post-disaster marketplace in which costs have risen.

In sum, insurers must learn to involve their claimants in the claims process. They must communicate effectively and frequently, and at all times treat them as intelligent human beings. This will go a long way toward building the trust between companies and their customers that in the case of this disaster, was so seriously torn apart.

Government has already taken major steps in both enforcing existing law and enacting new ones to more clearly spell out the responsibilities of companies with respect insurance marketing and claims handling.

Effective, this past July, insurance companies must provide written disclosures to homeowners which fully explain replacement cost, guaranteed replacement cost and code upgrade coverages. While this form represents a tremendous stride for consumers rights, improvements in the form are
necessary. Department of Insurance staff can work with legislators to fine-tune this statute, as they did in the initial drafting process.

Your committee may also want to consider drafting legislation requiring agents to provide a copy of the policy before the sale is closed and require insurers to offer policyholders a complete copy of their policies when a total loss claim is made. As their own copy may be destroyed, this would speed up the claims process.

In another area, we suggest a modification of the statutory standard fire insurance policy. The insurance code prescribes a standard form for fire insurance in California which prohibits insurers from making additions or omissions that are not substantially the same or more favorable to policyholders. Unfortunately, this form contains language excluding coverage -- and I quote here: "for any increased cost of repair or reconstruction by reason of any ordinance or law regulating
construction or repair...” Legislation should be enacted to strike those words. The state should no longer mandate an exclusion that has and will continue to adversely affect policyholders.

In conclusion, I hope that we can learn from this disaster that while policyholders should take personal responsibility to protect themselves from being victimized a second time by their insurance companies, the companies must take more responsibility for the proper underwriting, marketing and selling of their insurance products. By informing policyholders of the value of their coverage beforehand, and dealing with them in a fair and open manner after disaster strikes, they will more quickly rebuild both policyholders’ lives and their own reputations.

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# # #
Senator Art Torres  
Chairman: Insurance Claims and Corporations  
Room 2080, State Capitol  
Sacramento, CA 95814

October 10, 1993

Dear Senator Torres:

Thank you for your decision to hold a public hearing on October 14, 1993 about the problems Oakland Firestorm survivors are still having with certain insurance companies.

I would like you and your committee to know how our insurance company, State Farm, is holding my wife and me hostage over the issue of land/structure value. I ask that you and your committee consider introducing legislation that will correct this problem.

Our loss was 100% structure and personal property. Our policy is under my wife's name, Betty Ann Bruno, with State Farm, policy #05-09-0320-7.

In April 1992 we reached agreement on a structure replacement figure with State Farm of $631,000. State Farm said we had the choice to rebuild or replace our destroyed home. They said the money must be used to pay for a structure, but not the land it sat on. Our burned lot was assessed at $140,000. Betty Ann and I decided to replace rather than rebuild and in July of last year we found a home in San Rafael that would enable us to begin the task of rebuilding our lives. Our State Farm claims representative agreed that we could use the value of our burned lot as the value of the land the replacement structure was on. That would satisfy State Farm's requirement that they reimburse for the structure but not the land. The price for our new home was $681,000. By subtracting the value of the burned lot, $140,000, we agreed the structure value was $541,000. State Farm offered to give us the total structure replacement figure of $631,000 if we agreed to spend the difference, $90,000, ($631,000 + $140,000 = $771,000 - $681,000 = $90,000) on remodeling. We agreed. The home went into a 30 day escrow with our $20,000 good faith deposit. Betty Ann and I were ecstatic! We would have a home! We would begin to heal!

But next week with three weeks left of escrow, State Farm said it had changed its mind and would not release the funds under the conditions it had agreed to. It did not matter that we would lose our second home, or that we could forfeit our $20,000 good faith money. State farm now
demanded that we get estimates from a contractor for repairs and remodeling before they would release the money. And that wasn’t all. They also demanded we get city permits for the remodeling even though it is not legal for a city to issue permits to someone before they own a property. Agonizing days passed, escrow close drew closer. State farm now demanded we submit all plans for remodeling for its approval before it would release the funds. Our public adjuster, Randy Goodman of Greenspan Company, reminded State Farm that they had no authority under the law to make such a demand. Time was running out for removal of the contingencies from our offer on the house (i.e. that our insurance company would release the funds enabling purchase). Betty Ann and I felt sick. We didn’t understand why State Farm would do these things. Why would they break their word after we went into escrow based on their word? We began to feel then that we were being held hostage for some unknown reason. But State Farm placed yet more obstacles in our path. They hired an appraiser who said the lot under our replacement house was worth $275,000. They no longer cared what the value of the burned lot was. They now demanded that we spend $224,000 on remodeling instead of the $90,000 we had agreed on, take it or leave it.

This was a crushing burden to us, but State Farm wouldn’t relent. We felt trapped, backed into a corner, with no choice but to do whatever State Farm said.

The next burden they placed on us was the demand that we provide them with signed contracts for the remodeling, that estimates were no longer enough. We provided the signed contracts. Then State Farm changed it’s mind again. Now even the signed contracts were not enough. They would deduct $224,000 from the agreed upon settlement price right off the top unless we guaranteed to provide them with receipts and cancelled checks proving we spent that amount on remodeling and repairs within one year! My wife and I went into escrow on the basis of our agreement with State Farm to spend $90,000 on remodeling. Now they demanded that we spend $224,000!

That demand sent my wife and me into a panic. Escrow was scheduled to close in one week. We had no time to get other financing. If we did not agree we would lose the house and likely our $20,000 deposit. We hired a lawyer. He convinced State Farm to release the full amount of $631,000, but that is all. We were whipped, beaten. It would not have mattered if State Farm had demanded a million dollars from us. We needed that house. We had to begin to heal the wounds from the Firestorm. At that point we were ready to give State Farm anything it demanded of us.
More than a year has passed since we closed escrow on our new home. We love it and the fire wounds are healing, but they are being replaced with insurance wounds. We have spent somewhat over $100,000 on remodeling to date, far more than our original agreement with State Farm, but far less than the $236,812.45 they currently demand. How can insureds be held accountable for agreements they make but the other side is free to break those very same agreements?

We would be happy to give you documentation verifying all this at your request.

I thank you for calling this hearing and for accepting letters such as mine. I ask that you consider introducing legislation that would prevent future disaster victims from being subjected to abuse from their insurance companies similar to what my wife and I have suffered. One idea is to require that insurance companies use the value of the land under the burned structure or the value of the land under the replacement structure, whichever is less, when insureds decide to replace rather than rebuild.

Sincerely yours,

Craig Scheiner
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PREPARED STATEMENT OF BRENDA HELEN REED
HEARING OF SENATE COMMITTEE ON INSURANCE
OAKLAND, CALIFORNIA
OCTOBER 14, 1993

My name is Brenda Helen Reed. I am a Vietnam widow, aged 47, mother of two adult children, and earn my living as a professional speaker and writer. In 1972 I purchased my home located at 6274 Acacia Avenue in Oakland with life insurance proceeds that I received when my husband, Captain James Eddie Reed, was killed in action during the Tet Offensive of 1968 in Vietnam. My experience with my insurance carrier, SAFECO, has been fairly positive. So much so that in fact I painted "Thank you, SAFECO" on my garage doors and appeared on the cover of their AGENT magazine and in their annual report.

In June the builder of my home, W. J. GILMARTIN CONSTRUCTION of Burlingame, abandoned my project and left me with $284,000 worth of damage and unfinished work and $144,000 in unpaid bills on my home. There are approximately $70,000 in mechanics liens on my property and one subcontractor is now suing to foreclose on my property. I have incurred over $60,000 in legal fees as of this date and my legal issues have not been settled as of this morning. I am now in litigation with four insurance carriers, with my builder, and with Home Savings of America. I am involved in an investigation of Gilmartin Construction being conducted through Special Investigations with the State Contractors Licensing Board. I am now faced with the prospect that I could lose my home yet again, along with my remaining financial assets. My home is not completed. It is subject to ongoing damage with the ensuing winter rains and my damages will continue to escalate.
*dramatically unless these matters are immediately resolved with the numerous insurance carriers involved in this situation.

In June SAFECO informed me that they were no longer going to pay me "loss of use" proceeds even though they had promised to stand behind me on numerous occasions. My adjustor informed me, at that time, that they had paid all they felt they were required to pay under the terms of the policy. We are now in negotiations to resolve our differences. I am especially concerned because I felt pressured to settle my claim within 32 days, yes 32 days, of the firestorm. This was a time when I was in deep grief about the loss of my most valued and treasured possessions, the only mementos that I had of my late husband, and the home where I had lived for 19 years and had raised our son and daughter. It is unrealistic to think that a full scope and working knowledge of what is required to rebuild could have been attained at a time when I was barely coping and was trying to satisfy my most basic living requirements.

The issue of paramount concern to me and others in this room is the true meaning of "guaranteed replacement." In my mind in order to guarantee replacement of the home and insure that I would be restored to my home and lifestyle, it is necessary to obtain a performance or completion bond on the builder. As I had never built a home nor lost a home in a major disaster, I was not familiar with the need for this. My insurance adjustor did not allow any insurance settlement to pay for a performance bond to insure that my home would be completed and that if there was an unforeseen problem with the builder that I would not lose my home yet again due to a financial disaster in the builder's circumstances. Because I did not have a performance bond and also because SAFECO did not see fit to pay for one, I may very well lose my home before I even get to move back into it.
My attorneys and I have been in negotiations with SAFECO since May on these issues. We are also in negotiations with Home Savings of America, whose insurance trust department released the funds from my insurance trust account without fulfilling their fiduciary obligations. Likewise the builder's insurance carriers who are Scottsdale Insurance Company, Jefferson Insurance Company, Monticello Insurance, and Indemnity Company of California have failed to honor my insurance claims filed against them in July of this year. It appears that each of these entities wants to prolong this process until all of my financial resources are gone and they can bring me to my knees.

This is yet another FIRESTORM in my life. It is long since the time when I was to be back in my home. My life is topsy turvy. I have not performed any substantial work since the fire. I am under medical care due to the stress of these situations. My financial resources are depleted. I want to be back in my home and have my life restored. I want to have this FIRESTORM put out and ended once and for all -- to have SAFECO, SCOTTSDALE INSURANCE, JEFFERSON INSURANCE COMPANY, AND INDEMNITY COMPANY OF CALIFORNIA, AND HOME SAVINGS OF AMERICA -- do what is right and settle these issues with me in a forth right and expedient manner.

To SAFECO I would like to publicly say that I am deeply grateful for everything that you have done for me to date. I need you to continue to stand behind me with integrity and forthrightness and support me in the same manner that I have supported you in this community and throughout the nation. I need you to continue to provide for me that which was not provided with a performance bond and get me back into my home, pay off these subcontractors and suppliers, and compensate me for my loss of use and legal fees. I need your help now more than ever. And I assure you that I shall continue to speak highly
of your organization in this community. The fact is that time has run out. The wolves are barking at my heels. I pray for resolution before this day is over.

To this honorable Committee, to Senator Torres, and to Mr. Garamendi, I would like to thank you for your tremendous work on behalf of our community. I beseech you to enact legislation which clearly defines the meaning of "guaranteed replacement" and to require that these insurers cover their clients through the entire rebuilding process by providing for performance bonds, particularly when a home that has substantial economic failure is completely destroyed. In regard to the liability carriers who are not registered in the State of California, I beseech you to take measures to force them to deal with people like myself in good faith and to keep them out of this state if that cannot deal with integrity in our community.

Thank you for allowing me to speak here today.

******************************************************************************

FOR FURTHER INFORMATION PLEASE CONTACT:

BRENDA HELEN REED  510 428-0953

DAVID GOLDMAN, ESQ (WENDEL, ROSEN, BLACK, DEAN & LEVITAN)  510 834-6600
Dear Sirs:

My name is Clara Ree and my insurance company is Amica Mutual Insurance Company. Eighteen months ago we undertook a difficult but successful effort to retroactively upgrade our homeowners policy to the guaranteed replacement coverage (HO-500) which we believe we are always entitled. This painful effort was soon overshadowed by a family sadness, my husband's heart attack and his quintuple by-pass surgery six weeks later. On advice of his doctor to avoid stress, we appealed to Amica to let us buy a preexisting home instead of rebuilding our destroyed home, since we had settled with Amica on the replacement cost of Coverage A. Seven months ago, Amica agreed to our proposal. Amica confirmed this agreement as recently as August 18 of this year, which is just four days before we sent an accepted purchase contract to Amica for appraisal. Amica's reply of September 8, 1993 revealed for the first time that it now intends to breach this agreement. Namely, it would not contribute to the purchase of a replacement home, since it paid the actual cash value of our house more than a year ago. The actual cash value represents less than one half of the agreed replacement cost of Coverage A that Amica is obligated to pay. Moreover, Amica informed us that it will terminate our "Additional Living Expense" payment on October 20, 1993 since we are not rebuilding. This contradictory hard-line conduct constitutes conscious disregard for our rights. That is why I came here today to testify before this committee.

OUR DESTROYED HOUSE

Our home at 6300 Acacia Avenue, Oakland was destroyed in the October 1991 firestorm. It was large with 11 rooms and 4 bedrooms, located in the very stylish neighborhood of Oakland.

This home was unique, having been designed and built in 1916 by the late Maury I. Diggs (1880-1953), State Architect of California at his time. Indeed, this Diggs home was the only "Class
B+" rated house in our entire neighborhood. This classification is normally reserved by the City of Oakland Cultural Heritage Survey for significant historical and architectural importance. "Class A" is reserved for such big buildings as the City Hall and the Claremont Hotel.

**AMICA'S AGREEMENT TO REPLACE THE DESTROYED HOUSE**

On July of last year Amica paid us the actual cash value of our home. Following this payment, Amica agreed to pay an additional amount for the full cost of replacing our destroyed home under the HO-500 contract. This additional amount is significantly more than the actual cash value and its high cost is due to the architectural significance and the unusual structural quality of the house.

Following my husband's heart attack, we asked in March of this year to purchase a suitable preexisting residence instead of rebuilding. At that time, Amica led us to believe that it would pay us to "replace" our home. (We have our attorney's letter to substantiate this.)

Amica provided no guidance for replacement of the residence. Accordingly, we relied on the information and experience of other fire victims who participated in the United Policyholders meetings. The experience of these individuals, their insurers, and realtors who handled the home purchase transactions was that insurers permitted the purchase of pre-existing (replacement) homes without substantial criteria as long as the replacement home did not exceed the cost of rebuilding the destroyed home.

**Our Search For A Replacement Home**

We endeavored for five months to identify and consummate the purchase of a home with improvements roughly similar to the qualities of our destroyed home and that cost approximately the agreed settlement amount excluding land value. We, of course, were aware, as Amica should have been, that it would be impossible to locate a substantially similar house given the unusual nature of our destroyed Diggs home. Nevertheless, we expended considerable time, effort and money to locate a suitable property.

We informed Amica of our efforts to locate a replacement home. For example, last April our realtor wrote Amica of our interest in three properties. She included brochures describing the details (prices, sizes, addresses) of these properties, one of which is a Piedmont property whose owner later accepted our offer. Also, my husband wrote on July 26, 1993 laying out our efforts to purchase a replacement home. He mentioned nearly 100 houses which we inspected and three unsuccessful offers which we made.
On August 18, 1992, Mr. Schaum of Amica responded to us confirming that our search for a new home had not and would not be in vain. In short, Amica was apprised and understood that we were diligently searching for a replacement home, the nature of those efforts, and the types of homes being considered. At no time during that process did Amica suggest that it would refuse to pay the agreed additional funds.

Against this backdrop, on August 23, 1993 we sent the purchase contract of the Piedmont property to Amica for its appraisal and to request its authorization. Amica responded by refusing to entertain this home because the house and its lot are 'too big and in too nice a neighborhood.' Also, and even more incredibly, Amica insisted that we were already paid all amounts to which we are entitled under the policy back in July 1992, when it only paid the actual cash value for our home.

Amica's Misrepresentation

As of March 1993, Amica confirmed that we could purchase a replacement residence using the proceeds under the insurance policy. Amica did not place any limitations on our selection of a replacement residence. Moreover, AMICA raised no objections at the time we identified the Piedmont property in April 1993. Also, even as recently as August 18, 1993, Amica stated that the purchase of replacement property was acceptable.

Amica now attempts to reverse its earlier position by its letter dated September 8, 1993. In fact, Amica now contends that more than a year ago it paid all amounts to which we were entitled and accordingly will not contribute to the purchase of a replacement home.

Amica's Refusal To Consider the Piedmont Property As The Replacement

While people may differ in opinion on an appropriate replacement home, Amica's attack on the Piedmont residence is untenable. Amica's principal criticisms were that the Piedmont lot is too big and the neighborhood too nice. As Amica is aware, we have requested that Amica replace our residence, not the lot or location. (Also, the Piedmont lot is only about 10% larger than our lot which was appraised by Amica. Amica has permitted other fire victims to rebuild on larger lots.)

With respect to Amica's criticism of the size of the Piedmont house, we attempted to locate a home similar in quality of our home, but were unsuccessful. As a consequence, we were forced
to accept a house of less satisfactory quality. In return, we chose a house with greater quantity. Our choice can hardly be criticized based on this ground.

CONCLUSION

We cannot find any legitimate justification for Amica's conduct of agreeing seven months ago to pay for the cost of a replacement home and then refusing to pay any amounts beyond the actual cash value which was paid to us over a year ago. The physical, emotional and monetary expense that we have incurred in searching for a replacement home based on Amica's misleading conduct is substantial. We cannot help but conclude that Amica is choosing to place its own interests ahead of its insured's interests.

My husband continues to suffer debilitation from the heart attack. To a large degree, this injury is attributable to Amica's initial conduct in refusing to provide us the coverage to which we were always entitled. Also, he is undergoing medication for the stress associated with the prolonged and arduous process of attempting to replace his family's home.

Additional Remark

Finally I mention a meeting with Mr. Schaum at our attorney's office 9 days ago. It was held to resolve the issue I just described but was a total failure. Amica's position was to pay the agreed settlement amount to rebuild our home almost anywhere (except where the construction cost is higher than the Bay Area), but it will not contribute to the purchase of an existing residence even though this would mean a very substantial savings to Amica (due to increased lumber and other construction costs, etc.). Amica will discontinue the Additional Living Expense payment ("Coverage D") on October 20, 1993 since we have not yet decided to rebuild. Our homeowners policy does not contain such a provision.

Since Amica's action is financially and emotionally devastating, I called the Amica headquarters at Providence, RI, to appeal to an Amica senior vice president, Mr. Peter Reid, in charge of the Oakland Hills fire. My conversation with him went, in essence, as follows:

Clara "We have an attorney's letter (dated March of this year). It shows Amica is willing to consider purchasing a replacement home. It has been very stressful to look for houses. You could have told us last April that Amica would not pay the agreed settlement amount unless we rebuild."

Mr. Reid "I say so now!"
Clara "Why couldn't you have told us in April?"

Mr. Reid "I cannot answer your question. Talk to your attorney."

Clara "Our realtors called the Amica adjuster a few times to confirm Amica's approval of the insurance contingency. The Amica adjuster also told them to go ahead and bring an offer. Our realtors can testify to it."

Mr. Reid "We upgraded your original policy to make you a millionaire. Are you still complaining and asking for more money?"

Clara "No, you did not. You only paid the actual cash value. You still owe us the cost for a replacement home. Our friends say that ours is the most bizarre story. They want us to talk to news media and the Insurance Commissioner. Do you mind if we do so?"

Mr. Reid "No, I don't mind."

In the event that we cannot resolve this matter in an expedient manner, we will be forced to undertake the arduous task of rebuilding our destroyed home risking my husband's health and against our desires.

I appreciate your fair evaluation of this matter and thank you for giving me an opportunity to testify on our insurance problems.

Clara U. Ree
Imagine losing almost every personal item including your prescription glasses. Imagine almost losing your whole family. Imagine your children's school burning down. Imagine trying to find a suitable place to live when there are almost no homes available. Imagine trying to decide where to live when your whole neighborhood is completely destroyed. Imagine trying to work a full-time job, trying to raise two children who are entering adolescence and who have been equally devastated. Imagine trying to keep your family together.

After the fire I was in that situation. However, I thought that at least I could rebuild easily because I believed I had bought the best insurance policy available. Unfortunately, I was wrong.

After the fire State Farm was quick to give me a few dollars. However, it did not tell me that my policy covered any hotel accommodation. Afterwards, I found very little information forthcoming from my many State Farm adjusters. No one ever clearly stated what are covered living expenses even though I have asked many times. I was never told exactly what was covered. I soon realized that the only way to find out if some item was covered was to ask. Often, I learned that my claim was denied when some other policyholder with a similar claim was not.

It took me more than a year to reach a prelimnary agreement on replacement of my dwelling. This settlement meant spending thousands of unreimbursed dollars for professional fees. It meant working past midnight many nights checking the almost incomprehensible scope of loss from State Farm. It meant writing letters pointing out to State Farm the many omissions and errors they made trying to determine the value of my home. They forgot to include windows, forgot details in my house, missed cabinets etc. It meant taking hours from work to discuss my scope with State Farm. It meant spending weekends getting documentation and missing my children's soccer and baseball games. It meant not enough time to talk to my children, not enough time to help them with homework, not enough time to spend with my wife. It meant my wife and I rushing from dinner to make an appointment to work with contractors. It meant living my children alone at home. It meant my wife being forced to quit her part-time job. It meant begging other people to take my children home from events. I was forced to work on my insurance claim as fast as possible because State Farm was threatening to end my living expenses. In spite of all my effort, State Farm will cut off my living expenses on October 20 even though I am rebuilding my home.

While I was spending this time working on my insurance claim, I had a full-time job. Often, I was working more than 60 hours a week. I had to take evening, day and night shifts. There were weeks when I hardly could find time to talk to my family. At the same time I had to look for a new house as my landlord wanted to move back into our rental house.

During this time, I knew that State Farm had a deadline for personal property of January 1, 1993. I did not know how I would find time to complete it. I asked for an extension of time. The extension was denied. I worked many nights to 2 in the morning. I missed many Christmas activities. Finally on December 23, I had to stop even though I was not finished. Our family was to go on vacation on Christmas Day, our first opportunity since the fire. I appealed to the president of State Farm for an extension of time, I was refused.

After submitting a list of more than 1000 personal items that I lost, I was told by State Farm that I had to date and sign my 25 pages of documentation. Shortly afterwards came a list from State Farm in a format completely different from mine. I requested that they give me information so that I can transfer it to a personal computer. They refused. Their documentation was very difficult to read and contained less identifying information.
that I indicated. I had to check the State Farm list carefully with mine. I discovered a page and a half of items that I listed missing. I still am trying to correct their list.

I have spoken to many people who did not inventory their personal property because of the daunting task. I have spoken to people who submitted a list several days late. State Farm refused to accept their lists. I spoke to a woman who was expecting a baby in December. State Farm did not extend their deadline so she was unable to submit a personal property inventory. So many people have had similar experiences to me.

After submitting the list, policyholders have found many problems. Some were told to submit complete checking and credit card records. State Farm asked me to give them blank authorization to look at my credit card records. Many people spent many months trying to get requested documentation. Even though State Farm knew that we were totally devastated they made us spend so much time chasing around for their request documentation.

When I received a completed my inventory, I discovered that State Farm depreciated my wife's bike by about 80% while it depreciated a very similar bike that was stolen several months before the fire. State Farm has been unable to tell me why they changed their policy when we had a major loss.

Recently, State Farm has changed their policy on getting receipts for replacement items. We only have to show receipts for those items costing more than $100. However, I have submitted a revised list a month ago and have not received a final list from State Farm.

It will take us a long time to collect and collate receipts. I do not understand why State Farm does not just give us a lump sum personal property settlement and let us try and resume our normal lives. We are so tired of sending them documentation that they require but never read. We just want to go on with our lives and stop with the needless insurance paperwork.

State Farm's tactics are very easy to understand. The more work they require, the less people who have the stamina to submit documentation. The longer they delay payments, the more interest they get. Yesterday, I received another request for documentation for my claim for increased costs for lumber prices. They just want to tire me out. They want me to give up like they do to countless other California residents every year.

We have complained to the State insurance commission. The commission has found us right. However, it lacks the power and the resources to force the insurance companies to follow their recommendations.

A year after the fire my son said to me, “Dad, pay some attention to me. You are acting like the fire ruined our lives.” What he meant was we were all alive, we had our health, we had a roof over our heads. It is really worth while it to spend so much time trying to collect what is owed you from your insurance policy. He could be right.

In conclusion, we have been subjected to undocumented, arbitrary and changing rules. The State of California must protect its citizens from such abuse. It must help us and help its other citizens so no one is every treated in such a abusive way. It is obligation of an insurance company to treat its policy holders fairly like a good neighbor, not to continue the devastation of the fire like a bad nightmare. You, our elected representatives are our only hope.
Insured: Herb D. and Cherie L. Wetzel
Insurance Company: Oregon Mutual
Policy Number: PP102161 / Claim Number: 667927
Date of Loss: October 20, 1991 (Oakland Firestorm)

Coverage: Guaranteed Replacement Cost Endorsement without a cap.

Coverage A - Structure

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Face value of policy</td>
<td>$206,000.00</td>
</tr>
<tr>
<td>Actual cash value as of 10/91 (Christensen Appraisal Group for Oregon Mutual)</td>
<td>335,000.00</td>
</tr>
<tr>
<td>Replacement &quot;Cost Estimate&quot; 9/92 (D.J. Gallagher Construction Company for Oregon Mutual)</td>
<td>478,988.34</td>
</tr>
</tbody>
</table>

Oregon Mutual Insurance Company denied replacement cost coverage claiming that "improvements" that were in the process of being made to the structure at the time of the fire increased the value of the property by more than $5,000.00 and that Oregon Mutual Company itself had not been notified "within 90 days of the start of the work". The improvements that Oregon Mutual referred to were being done with permits, the work had not been finalled by the City of Oakland, and the "improvements" were more redecorating than remodeling in nature. It was never established that these "improvements" increased the value of the structure by $5000.00.

Oregon Mutual defined our insured premise as a "townhouse" rather than as a "single-family residence" even though the Building Department of the City of Oakland confirmed that our residence was built originally as a single-family residence and did not meet the definition of a "townhouse" because it was a "stand alone" structure and did not share common walls with an adjoining structure. Also, our policy initially had a box that was checked indicating that the structure was not a townhouse. By claiming that the structure was a townhouse, the liability of Oregon Mutual under the terms of the policy was greatly reduced.
Using Oregon Mutual's own underwriting guidelines in effect at the time of the firestorm, our residence was over insured. Our underwriting experts (and I believe Oregon Mutual's own underwriting experts as well) have confirmed that Oregon Mutual's Underwriting Policies were defective and may have been designed to deliberately underestimate the value of the property in order to keep premiums low and competitive. When they got caught in a major disaster, they looked for loopholes to bail them out.

Coverage “B” - Appurtenant Structures

| Face Value | $20,600.00 |

Our policy included coverage for appurtenant structures (in later declarations this term was changed to “related private structures on the premises”. Under the terms of the policy this coverage extended to private walkways, driveways, irrigations systems, private outdoor lightings, etc. Oregon Mutual denied coverage for these structures on the basis that our residence was a “townhouse” and that these structures were on property which we owned, by virtue of our deed, in common with other property owners. Because we did not “have exclusive right of use” coverage was denied. Initially we were billed for the cost of restoring this “common area” but when we did not pay the invoices, an assessment against our property was made. At this point Oregon Mutual claimed that “our policy did not cover assessments.”

Coverage “C” - Personal Property

| Face Value | $144,200.00 |

Oregon Mutual did not pay the face value of the coverage for our personal property until we had provided them with extensive, detailed inventory lists that demanded original costs and replacements costs for each and every item although it was obvious that some high value items easily exceeded the face value. We laboriously undertook this exercise because we believed that the face value of coverage “C” would be raised to reflect to “replacement value” of coverage “A” at which coverage “C” is tied.
Coverage "D" - Additional Living Expense

Face Value $41,200.00

Oregon Mutual has denied extending our ALE even though we are displaced for a longer period due to negotiating a settlement as per the terms of the insurance contract and because they have denied that coverage "D" is tied to coverage "A" although it is clear from the Agent's Manuals in effect at the time of the fire that Coverages "B", "C", and "D" are directly tied percentagewise to coverage "A".

Insured,

Cherie L. Wetzel,
Temporary Address - 1200 Lakeshore Avenue, Oakland, CA 94606
Phone: (510) 835-4228
Fax: (510) 835-5421
48 Starview Drive, Oakland, CA 94618

STEP 1: Construction Grade and Quality - CUSTOM

STEP 2: Dwelling Type - TWO STORY*

STEP 3: Calculate the Ground Floor Area

\[
\text{Dwelling } 32' \times 25'10'' = 830 \text{ sq. ft.} \\
\text{plus Bay } 9 \times 5 = 45'' \\
\text{plus entry/office} = 125'' \\
\text{TOTAL AREA} = 1000 \text{ sq. ft.}
\]

STEP 4: Construction Material - FRAME

STEP 5: Base Costs - Using Table for Homes Built After 1940

\[
\text{SQ. FT. GR. FL. - 2 Story Custom Frame } 1000 \times \$129.40 = \$129,400.00
\]

BATH (extra) Full Custom

\[
\begin{align*}
\text{" Half Custom} &= 1,570.00
\end{align*}
\]

GARAGE - Attached 2 car frame

\[
= 9,510.00
\]

FIREPLACES** - Pre-Built 2 Story Bldg.

\[
\begin{align*}
\text{\text{- Pre-Built 1 Story Bldg.} &= 1,710.00}
\end{align*}
\]

DECKS - Cost per square foot 300 sq. ft. x $6.30

\[
= 1,776.00
\]

TOTAL OF BASE COST AND ADDITIONAL FEATURES:

\[
= \$147,016.00
\]

LOCATION MODIFIER FROM CHART (Zip 946)

\[
X \times 1.26
\]

ESTIMATED REPLACEMENT COST

\[
\$185,240.00
\]

* Property was built as a single-family residence using "a townhouse concept". However, it does not share any common walls and does not meet the definition of a townhouse.

** One fireplace is located on the ground floor; the other is located on the floor above. These two fireplaces have separate flues in the same chimney.
Written testimony by Karen Alexander to Senate Insurance hearing
October 11, 1993

My experience with Ohio Casualty was capable of causing most a nervous breakdown. I had five houses burn to the ground and two severely damaged in the 1991 fire. Of the seven, two were insured by Fireman’s Fund.

Fireman’s Fund was wonderful. They came to me and asked me if everything was okay. They said to let them know what I thought it would cost to put back what was there. I hired builders and architects, the cost of which they completely reimbursed. The settlement was completed within a year of the fire.

Ohio Casualty on the other hand, sent us seven or eight different adjusters. I had to hire a person to deal with each one. I could not do it — I was trying to hold down a job, and the stress really affected my product. My company began to lose money. I was forced to lay off more than 100 employees (out of 160 employees) due to the stress of the insurance hassles combined with the economic recession.

At one point Ohio Casualty officials said they were closing down their California operations, “so there.” I took this to mean: Try and collect. Finally after almost two years of fighting over every point, thousands of dollars spent in lawyer’s fees, we settled. If I didn’t have the money to hire a lawyer and an assistant I would have quit, and received hardly any money.

My agent never mentioned to me that groups had formed to fight Ohio Casualty, not until I said I might have to sue him. Then he became “Mr. Nice Guy.” I don’t wish Ohio Casualty any harm, I just feel that some new measures of control for the person being insured should be inacted.

I really feel for people whose homes will burn in the future without the support of 3300 others.

Karen Alexander
5 Villa Terrace
San Francisco, CA 94114
Statement of Robert Bruce

October 14, 1993

I publish the East Bay Journal (formerly the Phoenix Journal), the newspaper that was founded to help people rebuild their lives after the fire two years ago.

Unfortunately, my own family has so far been unable to rebuild our home, largely because Transamerica Insurance Company has been unwilling to honor its own offer of a settlement.

I don’t know how many Transamerica policyholders have not settled, and I don’t know the number in litigation, but I suspect it is more than the six families reported in June.

We’ve all seen the Transamerica television commercials. Every time I am urged to get the “power of the pyramid” I wonder just where they plan to put that pyramid.

And since the fire, Transamerica, one of this country’s largest holding companies, has elected not to sell any more homeowner policies in the fire area.

The reason? They cited too many costly claims and factors creating a high fire-risk area.

This is particularly ironic, isn’t it? There is nothing left to burn. If they want to make money selling homeowner policies, this is the place to do it for the next 30 years, until the fuel load grows back.

To be more specific about our claim, my wife and I negotiated in good faith for countless hours in the kitchen of our rented home with a Transamerica adjuster.

We thought we had a settlement, but Transamerica failed to send us a proof of loss to complete on paper what we had agreed to orally.
Meanwhile, we learned that safety requirements would add tens of thousands of dollars to our rebuilding costs.

Transamerica agreed to cover part of that additional cost, but balked at covering consultants’ fees. And now they have reneged on their earlier agreement. They’ve taken the whole thing off the table. We are facing either arbitration or a lengthy lawsuit. These things cost a fortune in time and money. And all we have is a hole in the ground.

Our garage was insured for only $16,000. Estimates to replace this structure, which is dug into a hillside, start at more than $150,000. We were told we had enough insurance.

My wife and I negotiated in good faith. Why couldn’t Transamerica do the same? The insurance companies have all the muscle and the policyholders are powerless.

A physician I know who was a Transamerica client took a $200,000 loss, just to get them out of her life, she said. And she says it was worth every penny of it. How many people can afford that kind of blackmail payment?

We have seen how the insurance companies have ignored Proposition 103. We can’t allow this kind of arrogance to continue.

How do these people sleep at night?

We’re not trying to defraud the insurance companies. We’re just asking them to make us whole. And we are asking the legislature is to give the citizens of California a level playing field.

Thank you.
**United Policyholders - Random Survey**  
**Second Anniversary of the Oakland/Berkeley Firestorm**

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Total Replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Have you settled on all coverages?</td>
<td>53</td>
<td>49</td>
<td>102</td>
</tr>
<tr>
<td>If no, which ones remain unresolved?</td>
<td></td>
<td>Structure: 29 (28%)</td>
<td>Contents: 26 (25%)</td>
</tr>
<tr>
<td>2. Will a cutoff of ALE create a hardship for you?</td>
<td>Yes: 34 (44%)</td>
<td>No: 43 (56%)</td>
<td>77</td>
</tr>
<tr>
<td>3. Are you rebuilding or buying a replacement home?</td>
<td>Rebuilding: 53 (64%)</td>
<td>Buying: 26 (31%)</td>
<td>Undecided: 4 (5%)</td>
</tr>
<tr>
<td>If you bought a replacement home, did you have difficulty agreeing on the land value for the replacement property?</td>
<td>Yes: 3 (15%)</td>
<td>No: 17 (85%)</td>
<td>20</td>
</tr>
<tr>
<td>4. How much has it cost you in professional fees to collect your insurance benefits?</td>
<td>(&lt;$1,000: 7 (8%) )</td>
<td>($1,000-3,000: 12 (13%) )</td>
<td>($3,000-10,000: 7 (8%) )</td>
</tr>
<tr>
<td>5. What is the total amount in dispute:</td>
<td>(&lt;$0: 14 (29%) )</td>
<td>($0-50,000: 8 (16%) )</td>
<td>($50,000-100,000: 7 (14%) )</td>
</tr>
<tr>
<td>6. Would you recommend your insurance company to your best friend?</td>
<td>Yes: 42 (42%)</td>
<td>No: 44 (44%)</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td>Maybe: 13 (13%)</td>
<td></td>
<td>99</td>
</tr>
</tbody>
</table>
Recommendations Born of Experience: Peter Dempsey

(1) On Buying A Policy...
   (a) Require the release of policy **before** policy is purchased.
      i) There is too much reliance on the agent/broker sales pitch as to the coverages the policy provides.
      ii) A shopper must be allowed to compare apples to apples.
   (b) Requirement of the agent/broker to visit the house insured and review the valuations on the policy with the agent/broker's informed insurance specialist's opinion.
   (c) Annual review of the Boeche Index to determine its accuracy in establishing the replacement value of a dwelling. The policyholder must be informed of what the valuation of their home is by using the Boeche Index.

(2) On Any Loss...the insurance company should be required to give you:
   (a) a complete copy of the policy with all endorsements before the start of any negotiations for settlement.
      i) Some policyholders were handed the declaration page, cover page, and did not receive a full copy of the policy until they demanded a copy.
   (b) a full disclosure of what unfair claims practices are.
   (c) an outline of the claims settlement process including but not limited to:
      i) examples of scope of loss development for a structure
      ii) examples of contents valuations
      iii) examples of payment procedures
   (d) an agreement that only willing and licensed contractors will be used to bid the plans for replacement.
   (e) an agreement that only the agreed upon scope of structural loss will be used as a basis for bidding.

(3) On an Examination Under Oath...
   (a) We suggest the option of taking an Examination Under Oath in a written or oral form.
      i) This protects the policyholder from verbal badgering by the insurance company's lawyer.
      ii) This protects the insured from being questioned on issues of bad faith that are not germane to discovery of loss issues.
      iii) This keeps the insurance company from using the high pressure confines of the hearing room as a place to make off the record and unwritten settlement offers.
   (b) Because the Examination Under Oath is a legal document the insurance company must be willing to pay the policyholder for legal counsel of the policyholder's choice as part of Additional Living Expenses.
   (c) The insurance company must provide the policyholder with a complete transcript of the hearing. The policyholder must be allowed to correct, amend, and sign the document before it can be used in any way as a legal document. Insurance company claims of default legality are unacceptable.

(4) Freedom of information. The policyholders must have a right to examine all files concerning their case, policy, and carrier histories.
   (a) Right to know what reserve the insurance company has placed on your property.
   (b) Right to review and annotate the "Adjuster's Diary."
   (c) There is a need to limit the scope of confidentiality agreements being required of policyholders by their insurance companies.
      i) Many policyholders have been totally silenced. Policyholders must be allowed to share settlement experience to help fellow policyholders.

(5) Insurance Adjusters must be trained, certified, and licensed.
   (a) In a recent Marin County court case it was discovered that the only requirements the insurance company's "most highly trained adjusters in the business" must meet is the ability to fill out a form.
   (b) The knowledge base and confusion as to requirements of settlement among adjusters within a company, cause wide variations in the quality of service and settled dollar values.

(6) Statute of limitations should be very clearly stated.
   (a) No statute of limitation should be shorter than three years from the date of loss.
   (b) statute of limitations should start from an announced and identifiable point in the settlement process.
(7) 790.03 Unfair Claims Practices
   (a) The Department of Insurance needs stronger teeth built into the Unfair Claims Practices laws.
      i) The Department of Insurance's million dollar settlement with Allstate Insurance apparently has not caused Allstate to significantly change its behavior toward policyholders.
      ii) It appears that insurance companies easily are able to put Department of Insurance fines into their budgets.
   (b) We ask for an amendment to 790.03 that policyholders may pursue claims directly under 790.03.
      i) Currently, when policyholders claim "bad faith" treatment from their insurance company, the insured can only point to the similarity in the Unfair Claims Practices laws.

(8) Public Adjusters
   (a) There is a need for a longer period of "buyers remorse" in the emotional environment of a major loss. It is suggested three months may be sufficient for the insured.
   (b) There is a need for a total financial release clause on the abandonment of cases.

(9) Of course these suggestions are incomplete, but the legislature has never had such a large and well experienced group of people to interview about policyholder rights.
October 14, 1993

Hon. Art Torres
Chairman
Senate Committee on Insurance Claims
and Corporations
State Capitol, Room 2080
Sacramento, California 95814

Manuel P. Hernandez
Principal Consultant
Senate Committee on Insurance Claims
and Corporations
State Capitol, Room 2080
Sacramento, California 95814

Re: October 14, 1993 hearing before the California State Senate Insurance Committee

Dear Mr. Hernandez and Senator Torres:

This morning I attended the hearing before the California State Senate Insurance Committee. Due to time constraints I was unable to speak at the hearing. However, I would like to make you aware of a situation confronting Michael and Laura Wilson whom I represent. Mike and Laura lost their home in the Oakland firestorm of October 20, 1991. They were insured by Oregon Mutual but did not have guaranteed replacement cost coverage. They at all times sought to be fully insured and relied upon their broker and their insurance company to see that their interests were protected.

Prior to the fire, Mike and Laura did not even know what the term guaranteed replacement cost coverage meant, although they now know that the absence of this coverage will make it virtually impossible to rebuild their home. They also now know that the confidence and trust they had in their broker and their insurance company was misplaced. It now appears that there were some nine homes destroyed in the Oakland firestorm which were insured by Oregon Mutual. It also appears that all of these nine homes were underinsured and that some of them did not have guaranteed replacement cost coverage, even though it is available through Oregon Mutual.

Many carriers, where there is underinsurance, have investigated and, upon satisfying themselves that their insureds
made every effort to be fully covered, have upgraded the coverages. Oregon Mutual has not done so. It has simply paid its low limits and has refused to discuss or negotiate a common ground. These nine insureds are now being forced to file suit by October 20th of this year if they wish to obtain the coverage they thought they had purchased. They ask only the same consideration that other carriers have given their insureds. They are willing to cooperate in any investigation.

I think it is deplorable that people who have suffered the tragedy of losing their home now have to suffer the additional tragedy of being underinsured and ignored by an insurance carrier who has taken their premiums for years under the premise of providing security in the event of a loss. I have successfully negotiated many Oakland firestorm claims with a number of different insurance carriers and believe that my success is due in large part to the assistance of the California Department of Insurance. On behalf of Mike and Laura Wilson, and the other Oregon Mutual insureds who are similarly situated, I would like to request whatever assistance the California State Senate Insurance Committee and/or the California State Department of Insurance can now provide. I am hopeful that even in the case of an out of state company like Oregon Mutual, an insurer can be required to make good on its promise to provide meaningful coverage to its insureds.

Very truly yours,

Linda E. Klamm

LEK/ss
cc: California State Insurance Commissioner John Garamendi
    Cindy Osias
    Daphne Warner
    Roger Slide (Occipinti Insurance Services, Inc.)
    Ina DeLong (United Policyholders)
    Peter Dempsey
Mr. Edward B. Rust  
State Farm Insurance Company  
One State Farm Plaza  
Bloomington, IL 61710

August 18, 1993

James and Isako Watts  
P.O. Box 4327  
Berkeley, CA 94704

Dear Mr. Rust:

We are writing to take you up on the national offer that you made on the May 16, 1993 "60 minutes" program for policyholders who are having problems getting claims resolved to contact you personally.

On October 20, 1991 we lost our home and all of our personal belongings in the Oakland, CA fire. On May 9, 1993 we watched the "60 minutes" program, along with thousands of other Americans, that highlighted State Farm's performance after the Oakland fire and Florida hurricane. We are sorry to report to you that, based on our experiences, the "60 minutes" report was accurate.

Since the fire, we have suffered changing adjusters, letters that were not responded to, phone calls that were not returned, questions and requests that go unanswered, and twice our claim file has been sent to the Special Handling Unit (SHU) for determinations on a couple of policy issues unique to our particular claim. We were informed that while our file was in the "SHU", nothing else could be done on our claim until the "SHU" had finished its investigation and the file was returned to our regular adjuster. On each occasion, several months went by until the SHU reached its negative decision. Meanwhile, the bulk of our claim remained in "limbo", thus wasting many months of our precious time. Typically, we wait two to three months for our letters to be answered, if they ever are answered.

Unlike many fire victims, we have been committed from the very beginning to resolving our claim personally without the aid of a public adjuster, lawyer or government agency. We believed that by working closely in good faith with our adjuster, our claim would be quickly and professionally settled. We were sadly mistaken! As we now approach the two year anniversary of the fire that devastated our lives, we have little to show for all our efforts except a property covered with weeds four feet high and an unsettled claim (see photos).
We have written over thirty letters, made seemingly countless phone calls, and attended many meetings over the past two years. We have worked with our agent, three adjusters, three superintendents, and even contacted the regional vice president, Glenn Dorsett on two occasions, all to no avail. We turn now to you, Mr. Rust, as a final attempt to resolve our claim promptly, fairly, and reasonably within the State Farm organization, if that is possible.

Briefly, our claim history goes something like this:

**Problem 1:** In May 1992 our adjuster made us a rebuilding offer that was ridiculously low based only on wild speculation as the blueprints and specifications were not yet completed and the State Farm scope had not been reviewed and approved by us. After a year of negotiations finally based on an agreed-upon scope, actual blueprints and specifications, and bids from real contractors and estimators, State Farm made us an offer almost double the original offer. This was good! Unfortunately, the offer was/is still about $90,000.00 less than our contractor had bid to reconstruct the exact home that we lost. The contractor that we are using was recommended to us by our State Farm agent. This is the point that we are now at with the rebuilding portion of our claim.

**Problem 2:** In October 1992 State Farm agreed to extend additional living expenses to all affected policyholders for another year because of the unusual circumstances of the Oakland fire. Unfortunately, as October 20, 1993 approaches, our adjuster is threatening to cut off all of our additional living expenses. As you can see by the photo enclosed, we will have an infant in our family on October 20, 1993 (yes, we have accomplished something in the past two years), and we are very concerned about where we are going to live come October. We cannot afford to continue to pay our mortgage on the burned down home plus monthly rent and furniture rental payments. We cannot imagine living in a tent at our "field of weeds" with a newborn baby. We are very concerned about the health of our baby as it is, considering all the stress Mrs. Watts has gone through during pregnancy as a direct result of this insurance nightmare. We feel that State Farm is responsible for the long delay in settling our claim as we have not been dealt with in good faith in a timely manner. We can cite many examples of long State Farm delays in; answering our letters, returning several revised versions of the scope with corrections which we had returned, and resolving issues in the special handling unit to name just a few examples. One recent example of a typical response is noted in our letter to our adjuster dated May 24, 1993 where we asked for debris removal coverage to remove the 4-foot weeds on our property in order to comply with a city fire ordinance and citation that we had
received to clear the property. Our adjuster asked for a written estimate -- which we promptly sent -- then in July she said that she had passed our request on to the "management team" for a decision. Almost three months have gone by now, and we have written and called our adjuster at least 4 times since May, and we still do not have an answer! The weeds remain and our rebuilt neighbors are angry with us because our property threatens their new homes with fire potential. This one example is very typical of what we have been going through for almost two years now - long delays over petty issues while the "big picture" goes unresolved, and we are backed into a corner with the threatened cutoff of our additional living expenses. We believe that State Farm should continue to pay our additional living expenses until our claim is settled and our home is rebuilt. Our contractor estimates that construction will take about 8 - 9 months to complete once we begin. We wrote to Regional Vice President Glenn Dorsett about our concerns, and he sent the letter back down to Superintendent Bob Hester, who sent the letter back down to our adjuster, Lillie Noland, and in the end, we got nowhere and ended back where we started - with our adjuster. Our agent suggested that we write directly to you, Mr. Rust.

Problem 3: One more major problem about which we are concerned is that of the replacement of our lost personal property. Once again, we are being threatened by our adjuster with a deadline/cutoff date of October 20, 1993. First, we were told that we had to make a complete list of all our personal property which showed each item, date acquired, and replacement cost. It was a tremendous task that took months and involved almost 900 items, but we did it. Now, we are being told that we have to buy back all of those items before October 20, 1993, or they will all be severely depreciated in settlement. In other words, we only get full replacement value if we actually buy the items before October 20, 1993. Most of our precious time over the past two years has been wasted/spent trying to settle our rebuilding cost and get our home rebuilt. We have purchased some of our lost items that were immediate needs like some clothes, a bed, a washer, and a dryer, but have not had the time or need to purchase a china cabinet, curtains, and our wedding china. We had intended to buy back those sorts of items after our home is rebuilt and we live in it. Certain items on our list were singled out, and we were asked to provide proof of ownership. Although it was very difficult to find proof, we did the best we could and submitted all that was requested. Unfortunately, months have since gone by, and we have not heard anything from our adjuster as far as whether the items are accepted, and if we should go ahead and purchase them. Notification at the last minute does not seem fair as we could not possibly buy those items very quickly (like our wedding china set purchased in
Japan). Our present temporary rental home is not adequate to fill up with all of our lost belongings, and even if it were, what will we do with all of it if State Farm stops our rent payments in October and we are forced to move? We feel that our time has been wasted by State Farm working on unrealistic, indecipherable computer generated scopes, extensive personal property lists, and the writing of over 30 letters like this one. All of our efforts have been focused on trying to reach a rebuilding cost and get our home rebuilt, and now, as a result, we are going to be penalized on the replacement of our personal property. In short, we need more time to buy back our personal property, and preferably, we would like to do so after our home is rebuilt.

In summary, we are writing to ask for your help, Mr. Rust, in finding a fair resolution to the three major problems that we have explained. Basically, we need: 1. a rebuilding cost offer adequate to hire the contractor that our State Farm agent recommended, 2. we need our additional living expenses extended until our home is rebuilt and we move in, and 3. we need time to buy back all of our lost personal property without having it be severely depreciated. We have enclosed copies of a couple of recent letters that we sent to Vice President Glenn Dorsett and our adjuster Lillie Noland to give you a further idea of how we feel and what we have been up against. We come from a family in the Chicago area with many generations of our extended family being State Farm policyholders. I (Mr. Watts) have been a State Farm policyholder since receiving my Illinois driver's license in 1969. We have been with our present agent for the past 15 years. We are very disappointed in how we have been treated on this fire claim, and our agent is very embarrassed and sorry for us it seems. After all these years of promising us good coverage and good service, now that we need both, we find that we have neither, and our agent finds that there is little he can do to help us. Hopefully, you can help us, Mr. Rust.

To wrap it up on a positive note, we would like to thank you for having an agent like John deLeuze. Although this fire claim has been a nightmare for us and continues to be, John has been there for us whenever we needed him just as he has been for the past 15 years. John has defended us when he knew that we were right, and gone to bat for us with our adjuster, her superintendent, and even Glenn Dorsett at times when he felt that we were correct and they were not. Although John did not always win for us, he always tried! At times we have found John to be more of an expert on the policy terms, definitions, and conditions than anyone else in your company that we asked. Thanks to John, our settlement has actually gone smoother than it might have otherwise. Quite frankly, if it was not for John deLeuze, we are certain that we would no
longer be State Farm policyholders as a result of our treatment on this fire claim. John is a tremendous asset to State Farm Insurance, we are very grateful to have him as our agent, and we wanted you to know that one of your agents is doing an outstanding job.

We would greatly appreciate any help you can give us with our present problems. Thank you for encouraging us to contact you personally, for listening, and for offering to help.

Sincerely,

James T. Watts

Isako K. Watts

Encl.
Dear Mr. Garamendi,

I am writing concerning Oregon Mutual Insurance Company. They have given us very poor service since we lost our home in the 1991 Firestorm. They have not been willing to negotiate or increase our insurance. We were extremely underinsured and it has been a hardship for us to rebuild.

I feel those of us, with the misfortune of being insured with Oregon Mutual, have been neglected by your office. Since we are a small group, maybe it does not seem worthwhile to spend time working for us. However, I feel more pressure should be placed on the company to at least negotiate in good faith and help us rebuild our lives.

Thank you for any help you can provide.

Sincerely,

Laura Renaud-Wilson
76 Cordonices Rd.
Berkeley, Ca. 94708
Senator Art Torres
California State Capitol
Room 2080
Sacramento, California 95814

Dear Senator Torres:

Thank you so much for attending the Senate Hearings this morning in Oakland. I am responding to your offer to accept written testimony into the body of today's meeting.

By far the majority of individuals and representatives today focused on the larger insurance carriers with one exception, Oregon Mutual, our insurance carrier.

In all the surveys, what has become apparent is that the smaller the company, the less likely they are to comply with the insurance commissioner's request to provide fair treatment. This could be because since their names are not household words, they feel innocuous to media attention and have nothing to lose.

For this reason, I was quite pleased to hear your comment that Oregon Mutual's business in California be curtailed.

Oregon Mutual gets 30% of its business from California. Oregon Mutual lost 10 properties in the firestorm. Of them, I only have the data on 8. Two did not have guaranteed replacement, and have 120,000 and 220,000 to rebuild their homes. One had fire insurance only for 300,000 and the rest had guaranteed replacement but were badly underinsured for personal property.

We were badly underinsured because of the ambiguity in the policy and because we trusted brokers to see that we were well insured. Our policies linked Coverage C to Coverage A. Brokers sold us the assurance of Guaranteed Replacement which removed the limit for Coverage A but in figuring the personal property, they imposed the limit and allowed only 70% of it. We would never have chosen that.

After the fire, the CEO of Oregon Mutual, Denis Walker, toured our homesite and sent us the enclosed letter. In it he expressed compassion and included the annual report for Oregon Mutual. He ended it with, "Our Mutual Interest is You."

Now Oregon Mutual has refused to upgrade to any degree and we are in the 6% of policyholders whose companies have refused to come up to what is now the industry standard.

I urge you to read Mr. Walker's letter and read the philosophy he so proudly espouses then look at their record with the 10 of us. Please protect other Californians from our plight.

Sincerely,

Barbara K. Westover
Toilet Papered 1990

October 20, 1991

Westover Residence 5929 Azacia Av. Oakland
1960 Board of Directors at Oregon Mutual.
March 10, 1992

Christopher and Barbara Westover
1582 Mountain Blvd.
Oakland, CA 94611

RE: Oakland Hills Fire

Dear Christopher and Barbara:

I recently surveyed the area of devastation where your home once stood. Although I was totally overwhelmed, it was impossible for me to fully appreciate the tragedy that you and your loved ones experienced.

A copy of our 1991 Annual Report is enclosed. Our corporate mission and operating philosophies are shown on this document. We also have committed to writing, value statements regarding responsibilities to our publics. Our highest claims goal is "to provide fair, timely and considerate resolution of all claims".

The purpose of this letter is two-fold. First, to share our feelings of sadness for the tragedy you have experienced, and second, to ask if you feel we have appropriately responded to your needs. It is not my intention to interfere with the claim settlement, as I am not an experienced claims adjuster. I would, however, be very interested in your comments as to how well we provided fair, timely and considerate resolution of your claim.

Together with your agent, "Our Mutual Interest Is You".

Sincerely,

Denis J. Walker
President and CEO

DJW:tc
cc: Calco Insurance
Our Corporate Mission . . . 
"to provide selected markets with the best value in superior insurance products and responsive services."

Denis J. Walker
President and CEO

Operating Philosophies

OMI Prosperity
We perpetuate a viable and successful independent mutual insurance company by effectively managing our resources.

Integrity
As the foundation of our business conduct, we hold ourselves personally accountable to be honest, fair and ethical.

Respect for the Individual
We are accountable for quality of work life that values human dignity, recognizes individual contributions, and encourages career and personal growth.

Responsive Services
We provide excellence, dependability, and timeliness in serving our policyholders, agents, and employees.

Superior Insurance Products
We provide quality, innovative products for selected markets.

As we near our first century of serving Western policyholders, management and staff of Oregon Mutual are mindful that we achieve our corporate mission only through our operating philosophies.

Measuring our success in maintaining integrity, respect for the individual, responsive services, and superior insurance products is quite subjective. However, this report provides an objective illustration of our success in maintaining OMI's prosperity. The graphs show a conservative increase in premiums written, continued asset growth, and most importantly, a healthy increase in the Policyholders' Protection reserve of $1,920,003.

At Oregon Mutual, we strive for operating results superior to industry averages to assure policyholder security and a "Superior" A.M. Best rating. One important measure was our combined loss and expense ratio of 104.8%, which was much better than the industry's performance of 108.1%.

Assisted by consulting actuaries, we continue to monitor and strengthen loss and adjustment expense reserves. Bulk reserves were strengthened by $1,055,980 to assure they appropriately represent projected ultimate claim costs. Diligence in risk selection contributed to reduced claim frequency and a noticeable improvement in claim severity.

Competition for commercial accounts through irresponsible price cutting continues unabated. Although we strive to maintain a stable market, a high number of larger accounts have been lost to competition at prices which are lower than historical loss costs. This pattern is not new to the industry. Cut-throat competition during the early 1980's led to disastrous results by 1984.

"...those who cannot remember the past are condemned to repeat it" (H. G. Wells).

Santayana (1905) who observed "those who cannot remember the past are condemned to repeat it." At OMI, we continue our commitment to responsibly price our products even at the risk of losing some good accounts.

Our reinsurance programs allow for an orderly transfer of portions of larger risks to reinsurers who are specialists in risk transfer. This allows OMI to provide appropriate coverage to insureds. Reinsurance provides OMI with risk capacity for large exposures, stabilization of yearly financial results by limiting the size of individual losses to be paid directly by OMI and also reduces the catastrophic financial impact of natural disasters.

The Oakland Hills fire tragedy in California, the largest dollar loss in our 97 year history, shows the effectiveness of our reinsurance program. While loss costs will exceed $5,000,000, the majority of that amount will be paid by our reinsurers. Over time, we must pay all loss costs, and as we have done in the past, OMI will repay our reinsurers at reduced rates.

1991 operating results strengthened the security we provide our policyholders. Our success is a credit to our dedicated and loyal staff, agents and associates.

Denis J. Walker
President and CEO
Financial Statement
Oregon Mutual Insurance Company
December 31, 1991

Assets

<table>
<thead>
<tr>
<th>1991</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and Short Term Investments</td>
<td>4,283,889</td>
</tr>
<tr>
<td>Bonds (Amortized Value)</td>
<td>61,428,350</td>
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<tr>
<td>Stocks (Market Value)</td>
<td>5,820,445</td>
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<tr>
<td>Home Office Buildings</td>
<td>1,561,752</td>
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<tr>
<td>Premium Balances</td>
<td>5,763,072</td>
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<tr>
<td>Other Assets</td>
<td>5,901,945</td>
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<tr>
<td><strong>Total Assets</strong></td>
<td><strong>84,850,563</strong></td>
</tr>
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Liabilities and Policyholders' Protection Reserve (Surplus)

<table>
<thead>
<tr>
<th>1991</th>
<th>1990</th>
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</thead>
<tbody>
<tr>
<td>Reserve for Losses and</td>
<td></td>
</tr>
<tr>
<td>Loss Adjustment Expense</td>
<td>35,473,073</td>
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<tr>
<td>Reserve for Unearned Premium</td>
<td>21,234,836</td>
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<tr>
<td>Other Liabilities</td>
<td>8,109,028</td>
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<td><strong>Total Liabilities</strong></td>
<td><strong>64,816,935</strong></td>
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<tr>
<td>Policyholders' Protection Reserve (Surplus)</td>
<td>20,033,826</td>
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<tr>
<td><strong>Total Liabilities and Policyholders' Protection Reserve (Surplus)</strong></td>
<td><strong>84,850,563</strong></td>
</tr>
</tbody>
</table>

Statement of Income

<table>
<thead>
<tr>
<th>1991</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premiums Earned</td>
<td>43,773,735</td>
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<tr>
<td>Losses incurred</td>
<td>28,118,442</td>
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<tr>
<td>Loss Expense incurred</td>
<td>5,203,110</td>
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<tr>
<td>Other Underwriting Expense incurred</td>
<td>16,866,057</td>
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<tr>
<td>Net Underwriting Loss</td>
<td>(8,434,874)</td>
</tr>
<tr>
<td>Net Investment Income</td>
<td>4,801,280</td>
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<tr>
<td>Other Income</td>
<td>218,202</td>
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<tr>
<td><strong>Net Income (Loss) Before Taxes</strong></td>
<td><strong>1,565,686</strong></td>
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<tr>
<td>Income Taxes incurred</td>
<td>830,163</td>
</tr>
<tr>
<td><strong>Net Income (Loss)</strong></td>
<td><strong>755,523</strong></td>
</tr>
</tbody>
</table>

Policyholders' Protection Reserve (Surplus)

<table>
<thead>
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<th>1991</th>
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<tr>
<td>Balance beginning of year</td>
<td>18,112,825</td>
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<tr>
<td>Net Income (Loss)</td>
<td>755,523</td>
</tr>
<tr>
<td>Change in Non-Admitted Assets</td>
<td>982,242</td>
</tr>
<tr>
<td>Change in Statutory Loss Reserves</td>
<td>(188,574)</td>
</tr>
<tr>
<td>Other Non-Income Adjustments</td>
<td>372,810</td>
</tr>
<tr>
<td><strong>Balance end of year</strong></td>
<td><strong>20,033,826</strong></td>
</tr>
</tbody>
</table>

A copy of the complete Annual Statement is available for inspection by any Policyholder during office hours at the Home Office, McMinnville, Oregon.
Officers

James L. Osborne
Chairman

Dennis J. Walker
President and CEO

Michael E. Keyes
Vice President - Treasurer

Neil J. Reiter
Vice President - Underwriting

William L. Bingle
Asst. Vice President - Marketing

David C. Johnson
Asst. Vice President - Claims

Tony L. Chodrick
Corporate Secretary

Directors

James L. Osborne - Chairman
McMinnville, Oregon

Howard L. Hubbard
Hillsboro, Oregon

Elliott C. Cummins
McMinnville, Oregon

Pay L. Thompson
Portland, Oregon

Dr. Irving M. Field
Pullman, Washington

Denis J. Walker
McMinnville, Oregon

John G. Grant
Boise, Idaho

Offices

HOME OFFICE:
McMinnville, Oregon

REGIONAL OFFICES:
Concord, California
McMinnville, Oregon
Seattle, Washington

CLAIMS / SERVICE OFFICES:
California
Concord
Fresno
Placentia
San Diego

Idaho
Boise

Oregon
Bend
Eugene
McMinnville
Medford
Portland
Salem

Washington
Seattle
Congratulations on Your Decision

You have purchased one of the finest insurance policies available. The Oregon Mutual Insurance Company, located in McMinnville, Oregon, began in 1894. It is among the oldest Mutual Fire and Casualty companies west of the Mississippi River.

We are a Mutual Insurance Company and have no stockholders. When you buy an Oregon Mutual Policy you become a member of the Company. Profits, in a Mutual Insurance Company, are returned to the policyholder in the form of lower premiums rather than going as dividends to shareholders. Not only are our products a value, pricewise, but we also back our policies with excellent claims service. We have made a commitment to continue to upgrade both our service levels and our products to better meet the needs of Westerners.

We encourage you to read through your policy carefully. Should you have any questions regarding coverages, please contact your local insurance agent. Your agent is an independent “professional,” in the industry, with whom we work closely to effectively meet your insurance needs. Ask your local insurance agent about Oregon Mutual’s fine line of insurance policies.

“Our Mutual Interest Is You”

Our Corporate Mission . . .
“to provide selected markets with the best value in superior insurance products and responsive services.”
STATE FARM
East Bay Fire Cumulative Paid

(Millions)

11/20/91 04/20/92 10/20/92 04/20/93 10/06/93
02/20/92 07/20/92 01/20/93 07/20/93
Dear

Our Special Response Team has now contacted most of our policyholders with East Bay fire losses and reported to me on those conversations. While there were a variety of specific concerns relating to an individual situation, most centered around four issues. I want to address those issues and provide information about changes we're making in response to these concerns:

Permanent Claim Representative:
As explained in my letter of April 10, 1992, we recognized concerns about the rotation of claim representatives. While we believe that the system is valuable, we understand its limitations, and assigned each customer a permanent claim representative to handle their fire loss. In addition, those permanent claim representatives have a team of experts assisting them in preparing building loss scopes and estimates. This team approach assures that you have one person you can always meet with to discuss your claim. You also benefit from the expertise of our entire claim department. Your full cooperation is requested in helping your claim team complete the adjustment process and finalize your claim.

Additional Living Expenses:
To ease the minds of all of our policyholders, State Farm will consider adjusting the 12 month additional living expense period for those who are making every effort to rebuild their homes, but cannot complete the process within the original time schedule. If necessary, we will pay such expenses for 12 months from the date State Farm delivers an initial replacement cost estimate. Any such expenses beyond those already paid, will be reimbursed as they are actually incurred. Contact your permanent claim representative, Jim Edington, at (510) 613-0304 for full details.
State Farm Insurance Companies

September 25, 1992

RE: CLAIM NUMBER : 6-
OUR INSURED : 7-
DATE OF LOSS : October 20, 1991

Dear 9-:

As you work to rebuild following the East Bay Hills fire, State Farm wants to remind you that you may be entitled to further adjustment of benefits, including benefits for personal property and additional living expenses. As Mr. Dorsett advised you in May, 1992, the Company will adjust the 12 month additional living expense time period for all State Farm insureds who are making every effort to rebuild their destroyed homes.

State Farm has been working closely with the California Department of Insurance to make sure that our claim handling procedures accommodate the unique factors facing all of you as you rebuild. So that you have the time necessary to document your claims and return to your homes, the Company wants to announce the following procedures with respect to personal property and Additional Living Expense benefits.

**Personal Property**

Within the past 30 days you should have received a reminder notice that State Farm needs to receive your Personal Property Inventory to evaluate any claim for the loss of personal property in excess of the amount already paid. We asked that you complete such inventories no later than November 2, 1992, if you believe such benefits may be available. Please do everything possible to return those inventories by that date. However, if necessary, you may have until December 31, 1992, to complete the inventory supporting your personal property claim.
There have been some questions from policyholders about the type of detail necessary for completing the forms. We also understand that some policyholders have requested an outline of payment procedures and an explanation of necessary documentation to show actual replacement of personal property as required for the additional replacement cost benefits. Enclosed is a basic outline of our guidelines. We cannot emphasize enough that each claim is unique and your permanent claim representative will work with you to answer any questions you have about the process. State Farm is pleased to report that for those people who have submitted inventories, many have been able to provide the necessary information to allow us to fully process the claim.

Some policyholders have also expressed concern that they will not have sufficient time to actually replace destroyed items in order to satisfy the replacement cost requirement of the policy. The policy requires that actual replacement be made within one year of the loss. State Farm understands that due to the unique circumstances of the loss, that may not be possible.

If we have agreed to adjust your personal property limit following our review of your inventory, we will allow you until October 20, 1993, to make actual replacement of the items to support a replacement cost claim. All other Loss Settlement provisions for personal property will apply.

Additional Living Expenses

Every State Farm homeowner who suffered a total loss was paid, in advance, a full 12 months of additional living expenses, plus several weeks of temporary emergency living expenses. For most of our policyholders, those benefits will last through the end of this year. The Company recognizes that the severity of the fire may make actual rebuilding within that time difficult. To allow everyone who wants to rebuild their damaged home enough time to reconstruct a house, State Farm will agree to pay documented and incurred additional living expenses through October 20, 1993.

Every State Farm insured who wants to reconstruct a new home will thus have another year to rebuild. It is important to understand that these benefits will be paid on an actual incurred basis, supported by documentation of those expenses. We have enclosed another outline that describes
the Additional Living Expense benefits available and the procedures to follow to document a claim for those benefits. We again encourage you to discuss the details with your claim representative.

Some State Farm insureds have elected not to rebuild, but instead want to buy another home outside the fire area. Such housing is immediately available, and the Company does not believe that those policyholders need as much time to permanently relocate. However, if you cannot relocate in a permanent residence prior to the end of this year, State Farm will pay the additional living expenses you actually incur at your temporary location for up to one year from the date it delivered a replacement cost estimate to you. We believe that any policyholder who wants, can find a new home quickly.

**Payment of Replacement Cost Benefits For Coverage A**

State Farm wants to insure that our policyholders receive any additional replacement cost benefits quickly, so they can control construction cost payments. We want to repeat our procedure for payment of these benefits.

For policyholders who are reconstructing a home, State Farm will pay the full amount of the agreed Guaranteed Replacement Cost funds, including professional fees, once you (1) sign a construction agreement documenting that you will expend the full amount of the agreed benefit, (2) obtain a permit for that construction, and (3) begin construction, such as pouring a foundation. Any amount paid will be consistent with the Loss Settlement provisions of the policy.

If you elect to buy a new house, State Farm will pay the remainder of any Replacement Cost benefits once you (1) enter into a sale contract for the purchase of improvements equal to or exceeding the agreed replacement cost of your damaged home, and (2) open escrow for the purchase of that home. State Farm’s policy does not provide payment for the value of the land at the new location and we will subtract the land value from the sale price of the new property. Any payment will be consistent with the equivalent construction of your destroyed home.

Again, the above procedures are methods to speed full payment of your dwelling Replacement Cost benefits. Any payment must be consistent with the terms of the policy, including the Loss Settlement provisions. If you have any questions about these
procedures, please ask your permanent claim representative to explain them with reference to your particular circumstance.

State Farm's claim staff understands the difficulties you face trying to return to rebuilt homes. We will do everything we can to resolve your claim with your cooperation. If you have any questions about the current status of your claim or problems you believe may exist in quickly resolving your claim, please call your claim representative.

Sincerely,

JACK F. DIXON
Divisional Claim Superintendent
STATE FARM INSURANCE COMPANIES

cc: Agent 13-
ADDITIONAL LIVING EXPENSES

Under the Additional Living Expense policy benefit, the policy contract provides coverage for the necessary increase in cost to maintain your standard of living. These benefits are normally paid on an incurred basis. The amount payable is the difference between your normal expenses and those reasonable and necessary costs incurred post loss until you may return to your home.

We will consider payment of the reasonable and necessary incurred expenses to move property replaced under Coverage B from your temporary housing to your rebuilt or replaced home.

Incurred means that you must provide a written verifiable document which reflects you have paid or are obligated to pay a particular expense. Expenses that we anticipate at this juncture would include continuing rent expenses, furniture rental expenses and perhaps increased mileage due to temporary relocation further away from the place of employment. We will make arrangements with you for the direct billing for these expenses, if you so desire. As an example, a monthly bill from a furniture rental firm would be sufficient for our needs. We will verify that the expense has been incurred and then immediately make payment for that month’s expense.
The policy contract requires that the insured provide an inventory of the loss and attach to the inventory all bills, receipts and relating documents that substantiate the figures in the inventory. Recognizing that many insureds have lost all their personal possessions including their records, State Farm has asked that insureds complete their inventories and submit them for evaluation. Once the inventories have been submitted, State Farm reviews the inventories to determine what documentation will be required to substantiate the loss.

The inventories require that the insured provide a description of the lost property such as television, bed, shirt. The inventories further require any identifying information available such as brand name, model number or serial number as well as the age. The detail required on the inventory is tempered by the age and value of the item. While it may be difficult to be reasonably precise on the age and brand of older items of lesser value, newer items of higher value should be reasonably precise. As an example, it would probably be difficult to identify the brand name and month and date of shoes purchased over one year prior to the loss, but one would expect to recall the month and year of the purchase of a large screen television purchased less than one year ago. It is perfectly acceptable to group similar items such as shirts or bedding. However, in order to be complete, it is probably in the insured’s best interest to itemize by room to avoid overlooking items.

The inventory form also requires that the insureds provide their best estimate of the current replacement cost and actual cash value of the items lost. This information is vital for the insureds to receive the benefits owed. The evaluation of the loss is based on the current replacement cost not the original purchase prices. The Actual Cash Value represents the used or market value of the item and should be the insured’s best estimate.

Reasonable documentation is required to support the insured’s claim. Since personal records stored on site have been lost, insureds will have to rely on records available elsewhere. In general, documentation is required on larger items that are recent purchases or other items that are of a unique nature which would lend themselves to documentation. As an example, the purchase of furniture would be verifiable by returning to the point of sale and requesting a copy of the sales agreement. The value of an antique musical instrument may be documented by a repair or restoration facility.

If Replacement Cost benefits are available to an insured under the provisions of the policy contract, those benefits are paid on an incurred basis. When the insured presents a verifiable
document confirming that the article has been replaced or the expense for replacement incurred, a supplemental payment will be issued. The timing of these payments is anticipated to be on a monthly basis to facilitate management of the process.

Each claim is as unique as the property owned by the individual insured and will require its own individual evaluation of the documentation required. State Farm recognizes the difficulties faced by insureds and will continue to work with each individual insured and their unique circumstance.
State Farm invited all State Farm homeowners who suffered a total loss to their home to submit a personal property inventory by December 31, 1992 if they believed that their loss exceeded the already advanced policy limit payment. You submitted a timely inventory. As a result of recent discussions with the California Department of Insurance and representative State Farm policyholders, State Farm is making some changes in its procedures for evaluating and paying any additional personal property benefits.

Below is a summary of the procedures and changes. It is important that you discuss these procedures with your State Farm Claim Representative to insure that you understand how they apply to your claim.

1. Deadline for Replacement of Personal Property

For all policyholders who have timely completed a personal property inventory and provide adequate documentation of that inventory, State Farm will extend the time to replace personal property to October 20, 1994.

2. Documentation of Inventory

State Farm has relaxed the normal documentation requirements in recognition that you lost your normal records and cancelled checks. However, banks and credit card companies have assured us that obtaining copies of these records dating back several years is not difficult. State Farm will pay the normal and reasonable processing charges for copies of checks, credit card statements and other records necessary to document your recent pre-fire purchases. State Farm will focus attention of high value items ($1,000.00 or more) purchased 2-3 years prior to the fire.

Most State Farm policyholders who submitted inventories have already satisfied the documentation requirements. We urge those who have not to immediately provide the requested documents or call your Claim Representative to discuss the process. You must satisfy this requirement before any additional benefits are paid. State Farm wants to complete the documentation process by the end of this year, so please contact your Claim Representative to discuss any problems you may be having with obtaining the requested documents.

State Farm reserves the right to request documents on any items whose value is unusual given the nature of the item, even if less than $1,000.00. In addition, State Farm will also require sufficient descriptive information and documentation on any high value items, regardless of age, in order to verify the value. For example, if your inventory lists an "oil painting" with a value of $5,000.00, State Farm will require information sufficient to justify such a valuation.
3. Obtaining Replacement Cost Benefits

State Farm recognizes the unique circumstances arising out of the Oakland Hills fire, and understands that purchase and record keeping of many smaller items is difficult. To reduce that burden, once you have submitted acceptable documentation of your inventory, State Farm will recalculate your inventory to include the full agreed Replacement Cost Benefit for all listed items with a replacement cost valuation of $100.00 or less, plus tax. If the new amount exceeds the payment already made, State Farm will make any additional payment without requiring the actual purchase and submission of replacement receipts. If the newly calculated amount does not exceed what you have already been paid, no additional payment will be made at this time, however it will still eliminate the need to document the replacement of those lesser valued items.

This procedure will apply to groups of items under one category such as books, records, tapes, videos, etc., as long as the average replacement value of each item is less than $100.00. The process of recalculating the replacement cost and eliminating depreciation from all of those items is time-consuming. Also, this benefit cannot be made available to items covered by special limits, such as business property and home computer property. It will take time for all of the inventories to be reviewed and recalculated. You will have to submit receipts for all replacement items in excess of $100.00 and match the receipt to an item on the inventory in order to obtain replacement cost benefits for those items. We encourage you to submit receipts in groups as you replace your property so that the process is fast and efficient. No recalculation of your inventory will be made until State Farm receives adequate initial documentation.

These changes in adjusting procedures are not required by the contract, and are made solely in response to the unique circumstances involved in Oakland Hills fire claims. The changes were made in conjunction with discussions with the California Department of Insurance and State Farm wishes to thank the Department and the State Farm policyholder representatives who participated in meetings to discuss these changes. Please understand that these procedures do not constitute changes in your contract of insurance with State Farm and the changes will not apply or be binding upon State Farm in any past, present or future claim. State Farm reserves the sole right to interpret these procedures. In case of any disagreement regarding the procedures, State Farm reserves the right to rely solely upon the terms of the written policy of insurance.

This is only a general description of the procedures for handling your personal property claim. Please call your State Farm Claim Representative if you have any questions.

STATE FARM INSURANCE COMPANIES
The Honorable Art Torres  
Chairman  
Senate Insurance Claims and  
Corporation Committee  
State Capitol Room 2080  
Sacramento, CA 95814

Dear Senator Torres:

The California State Automobile Association Inter-Insurance Bureau received your notice of the hearing scheduled for October 14, 1993 in Oakland. The notice was received by CSSA-IIB the afternoon of October 12, 1993. Due to the short notice we regret CSAA will be unable to have a representative attend.

CSSA-IIB received claims from 387 insureds from the Oakland Hills Firestorm. These included 192 total loss claims. All but three dwelling claims have been resolved. However, there are individuals who have rebuilt and maybe submitting additional claims. When those claims are submitted they will be handle in an expeditious manner. In addition, some insureds have additional personal property claims that have not been received by CSSA-IIB. These claims will also be handled expeditiously. With regard to claims that have not been fully resolved, CSAA-IIB will submit the information you requested in your notice as soon as practicable.

To date CSAA-IIB has paid its policyholders $141,241,250.40.

I would like to take this opportunity to list the decisions made by CSAA-IIB to provide increased benefits to all policyholders who were victims of the Oakland Hills Firestorm:

1) Upgraded Dwelling Replacement Coverage to the actual cost of replacement for all policyholders on or before February 6, 1992.

2) Upgraded Other Structures Coverage proportionately with the increased Dwelling Replacement Coverage for all policyholders on or before February 14, 1992.
5) Upgraded Landscaping Coverage proportionately with the increased Dwelling Replacement Coverage for all policyholders on or before February 14, 1992.

6) Upgraded all Dwelling coverage to include code requirements.

7) Paid full replacement costs without requiring actual replacement or the commencement of construction.

8) Paid Coverage A stated policy limit amounts to all insureds we could locate prior to December 30, 1991.

9) Paid Coverage C stated policy limits without requiring an itemized inventory of property when there were indications the property would likely equal or exceed the limit.

10) Paid full replacement cost (above the stated limit) without delay as soon as it was determined.

11) Did not require releases or waivers as a condition to a receipt of any proceeds.

Very Truly Yours,

[Signature]

Kimberly A Bennion
Legislative Counsel
Governmental Affairs

KAB/fq

(Fax)
October 13, 1993

Senator Art Torres
Chairman, Senate Insurance, Claims & Corporations Committee
State Capitol, Room 2080
Sacramento, California 95814

Dear Senator Torres:

On behalf of Allstate Insurance Company (Allstate), I am writing to advise you that Allstate will be unable to appear at the committee hearing scheduled for Thursday, October 14, in Oakland, California to discuss insurance claims arising out of the 1991 Oakland firestorm. Although Allstate is generally willing to reply to the questions contained in your October 12, 1993 letter to Wayne Hedien, the lateness of the letter did not allow us sufficient time to provide the committee with an accurate response. We will compile that information and transmit it to you as soon as possible.

Moreover, some of the cases in which issues remain unresolved are in litigation; a significant number of those cases are in or progressing toward mediation or are otherwise close to resolution. Due to the sensitive nature of this litigation and the privacy concerns of our policyholders, it would be highly inappropriate for the company to comment in a public hearing on these cases.

It should also be pointed out that, in December 1992, Allstate settled the administrative action brought by the California Department of Insurance relating to the company’s handling of claims arising from the Oakland firestorm. Since that time, Allstate and the department have worked together in an atmosphere of cooperation Allstate has developed a number of programs which have enhanced Allstate’s claims processes. Some of those programs include: (i) supplemental training of Allstate’s agency force, (ii) a claims brochure to be provided in certain structural loss claims, and (iii) a special, highly trained and experienced catastrophe unit. We also continue to advise the
Senator Art Torres  
October 13, 1993  
Page 2  

department concerning relevant developments in resolving open claims. In light of the successful conclusion of the agency’s administrative action, we do not believe it would be appropriate for the company to participate in a discussion of matters resolved in that action.

We hope that this information provides constructive assistance to the committee as it proceeds with its deliberations. Please feel free to contact me if you have any additional questions.

Very truly yours,

Delia M. Chilgren

Copy to: Cynthia Ossias, California Department of Insurance  
Tim Hart, Association of California Insurance Companies  
Sam Sorich, National Association of Independent Insurers
October 13, 1993

BY HAND DELIVERY

Senator Art Torres, Chairman
Senate Committee on Insurance, Claims & Corporations
State Capitol, Room 2030
Sacramento, California 95914

Re: Hearing On Oakland Firestorm Claims

Dear Senator Torres:

Transamerica Insurance Group appreciates your invitation to participate in the Hearing which you have scheduled for October 14, 1993, concerning the Oakland Firestorm. Unfortunately, Mr. Vaughn is unavailable due to a medical emergency. Additionally, we did not receive your invitation in sufficient time to arrange for another person to attend the Hearing. We are pleased to present a written report, as set forth below.

We are also concerned that an appearance at the Hearing might lead to pressure for Transamerica to provide information concerning individual claims or settlements in a manner which would violate consumer protection provisions of both the Insurance Code and the Civil Code. We have neither sought nor received permission from any insureds to discuss their cases at the Hearing.
Senator Art Torres
October 13, 1993
Page 2

We are pleased to provide the following information concerning the status of our claims:

<table>
<thead>
<tr>
<th>Number of Claimants:</th>
<th>286</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claimants Fully Settled:</td>
<td>224</td>
</tr>
<tr>
<td>Dollars Paid</td>
<td>$107,358,875</td>
</tr>
</tbody>
</table>

These statistics do not, however, tell the full story. Transamerica voluntarily increased the coverage on all homeowners policies to treat the insureds as if they had purchased guaranteed replacement coverage. Of the 62 claimants with open files, the majority involve reconstruction which is not completed, and the total cost has therefore not been determined. There are a few similar situations concerning personal property replacements. Eight files have open issues; three involve lawsuits which have been filed. The issues in contention can be summarized as principally involving:

- Claims for additional living expense by individuals who have made no effort to rebuild or seek replacement housing, or who have themselves delayed the rebuilding process;
- Unproven claims for increased costs of building materials; and,
- Unsupported and/or unbelievable contents claims.

We would like to have this response read into the record, documenting Transamerica Insurance Company's cooperation and responsiveness in seeking to resolve all matters relating to the Oakland Firestorm.

Sincerely,

[Signature]

John H. Holler

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1 This does not include claims relating to automobile losses, all of which have been settled.