Floodplain Manager's Notebook

By Rebecca Quinn, CFM

While searching through the stack of notes I keep on possible *Notebook* topics, and considering about the many floods in the past months, I kept thinking about Substantial Damage. This column is based on one that ran about five years ago, but it's worth repeating.

State and local floodplain managers and code officials know that dealing with substantially damaged buildings is one of the more difficult parts of their jobs. That challenge is multiplied when widespread flooding occurs and hundreds, if not thousands, of buildings are damaged. But even if only a few buildings in a community are damaged by flood, handling substantial damage can be complicated.

One of the complications is that, all too often, local officials aren't entirely aware of which buildings were damaged, much less which owners should get permits. In a perfect world, all owners (and their contractors) would make the trip to the local permit office. But that doesn't always happen in the post-flood clean-up and repair frenzy. And yes, we all know some owners and contractors skirt the rules deliberately to avoid having to bring substantially damaged (and substantially improved) buildings into compliance. My guess is those property owners won't connect their own choices to avoid SI/SD with high flood insurance premiums as the NFIP continues to increase rates, even on older, nonconforming buildings. Instead, they'll likely just blame it on "the government."

I'll first briefly review the Substantial Damage rule and then touch on Increased Cost of Compliance coverage that's part of NFIP flood insurance policies. Then I'll let you in on a little known source of information that may help in those difficult post-flood periods.

The Substantial Damage Rule. We all know the rule – if a building in the SFHA is damaged such that the cost to repair it to its pre-damage condition equals or exceeds 50 percent of its market value before the damage occurred, then the building is substantially damaged. Community officials must make this determination whenever a building is damaged by any cause – flood, fire, wind, earthquake, explosion, even vehicle impact and deterioration due to neglect. Substantially damaged buildings must be brought into compliance with the requirements for new construction. While elevation to or above the base flood elevation is the most obvious

SI/SD: Market Value and Costs

The SI/SD Desk Reference, Section 4.5, describes four options to determine market value: professional property appraisals, adjusted assessed value, actual cash value and qualified estimates. Actual cash value is "the cost to replace a building on the same parcel with a new building of like-kind and quality, minus depreciation due to age, use, and neglect." Communities should decide the preferred method and be consistent. It's common to use adjusted assessed value (property assessment made for tax purposes that's adjusted by a factor provided by the assessor's office), but allow owners to submit professional appraisals.

Section 4.4 of the SI/SD Desk Reference covers determining costs of improvements and costs of repairs. Section 7.4.1 explains insurance estimates of repair costs are not sufficient for making SI/SD determinations because what's covered by a policy may not include repair of all damage.

NFIP claims adjusters report "probable repair costs," "building replacement cost value" and "building actual cash value" on the *Adjuster Preliminary Damage Assessment Form* when it appears buildings may be substantially damaged. In the insurance world, those terms likely have specific meanings, but they are not defined in the *NFIP Adjuster Claims Manual*.

requirement, it isn't the only part of compliance that must be addressed. To understand the ins-and-outs of making SI/SD determinations and what compliance means, you can't do better than reading the *Substantial Improvement/Substantial Damage Desk Reference* (FEMA P-758).

Increased Cost of Compliance. Years ago, Congress authorized ICC coverage as part of NFIP flood insurance policies. When NFIP-insured buildings located in SFHAs are substantially damaged by flood, policyholders can receive ICC claim payments of up to $30,000 towards the cost of bringing the buildings into compliance with local floodplain management requirements. The ICC claim can be used towards the cost of elevating, relocating (preferably outside the SFHA), or demolishing any building, and it can be used towards the cost of dry floodproofing nonresidential buildings.

Making ICC work has been called a dance of three partners: the policyholder, the local official and the claims adjuster. Each partner has a role, but the problem is sometimes they don't know who has the lead! Learn more by reading FEMA 301, *ICC Guidance for State and Local Officials*, and search the FEMA website for other materials (some written for policyholders). The Flood Insurance Advocate's *first annual report* identified barriers in the ICC process and calls on the Flood Insurance and Mitigation Administration to update FEMA 301 (published in 2003), FEMA P-758 and other information materials that explain ICC.

Lots of communities participate in FEMA-funded mitigation grant programs, which typically require up to 25 percent cost-sharing with non-federal funds. It's important to realize that policyholders can assign their ICC claims to communities to be used as part of the non-federal cost share of most flood mitigation projects. While ICC can't pay for property acquisition, the claim payments can be used for demolition or relocation of buildings that are part of buyout projects. Check out Part III, C.2 in the current *Hazard Mitigation Assistance Guidance* to learn more.

Information on NFIP-Insured Flooded Buildings. Now let's turn to the post-flood scenario. Insurance adjusters who handle claims for flood-damaged buildings covered by NFIP insurance policies use the procedures and guidance published in the *NFIP Adjuster Claims Manual*.

When activated, adjusters are required to inspect assigned properties within 48 hours of receiving the loss assignment. The initial inspection includes preparation of a preliminary scope of damage. Adjusters are instructed that this is also [the] time to complete the *Adjuster Preliminary Damage Assessment Form*, which is then submitted to the NFIP bureau and statistical agent. The Claims Manual notes "capturing claims data on buildings that will probably be substantially damaged has become increasingly important to FEMA and to the officials of affected communities" and the form should be reported "as soon as possible after it appears that the building is substantially damaged (50 percent of the building's value)" (emphasis added)

The form is very simple. The adjuster fills in the policyholder name, policy number, property address, and three dollar values: probable repair cost, building replacement cost value, and building actual cash value. *Note two important things:* these dollar values are not the same used by local officials to make substantial damage determinations and only local officials are authorized to make SI/SD determinations. However, wouldn't having the reported information be valuable to help state and local officials identify not only individual properties, but areas where uninsured buildings likely sustained similar levels of damage? Wouldn't that help us focus attention shortly after flooding?

> Only the community is legally responsible for making SI/SD determinations. Information from insurance claims may help screen for substantial damage, but cannot be used as the basis for final determination. *From FEMA P-758.*

So the big question is how do you get the information reported by adjusters? If knowing which flooded buildings "appear" to be substantially damaged, even if based on different dollar values than used by communities, is important, why doesn't FEMA deliver reports to state coordinators, or even local officials in affected communities?

I always turn to the SI/SD Desk Reference for answers to my SI/SD questions. Sure enough, the answer to the question is "yes, the information is available," described in Section 7.4.1:

> "Local officials can use this information for screening purposes to help identify those buildings that should be examined more closely. Because federal flood insurance does not cover all damage that local officials must consider when determining substantial damage, the reported Probable Repair Cost may underestimate the total cost to repair. In addition, the Building Replacement Cost Value and the Building Actual Cash Value may not be equivalent to market value. After floods, communities should contact the NFIP state coordinating agency or FEMA regional office to determine if this information is available."

If you're successful at getting this information, be sure to ask for periodic updates to get new reports as adjusters continue to submit the *Adjuster Preliminary Damage Assessment Form* data to the NFIP.

Submit your own items or suggestions for future topics to column editor Rebecca Quinn, CFM, at rcquinn@earthlink.net. Comments welcomed!

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