

COMPLAINT TO THE DEPARTMENT OF INSURANCE

March 11, 2008

To:

DEPARTMENT OF INSURANCE
CONSUMER SERVICES AND MARKET CONDUCT BRANCH
CONSUMER SERVICES DIVISION
300 S. SPRING ST., SOUTH TOWER
LOS ANGELES, CA 90013

SUBJECT: VIOLATIONS OF THE CALIFORNIA STATE INSURANCE CODES
AND PENAL CODES IN THE INVESTIGATION OF AN INSURANCE CLAIM.

From:

WOODROW L. HIGDON

Reference: Wawanesa Insurance Claim #505179

Documentation In Attached Three (3) Ring Binder

1. Document Index & Chronology (Diary of Conversations & Events By Date)
2. Tabs 1 – 27, Higdon Letters Of Notification, Wawanesa's (3) Letters of Denial, Expert Reports (5) (In Order By Date)
3. Tab 28 – Wawanesa Insurance Letters Of Notification On Filing Of Claim #505179
4. Tabs 29 - All Policy Documents Issued By Wawanesa on Higdon policies from 1993 thru 2007 (we keep everything).

The only reason that this extensive documentation exist, is that Wawanesa Insurance, did not expect a homeowner, with expert knowledge in insurance claims investigations to be on the other side of this type of homeowners claim. All letter of notification to Wawanesa Insurance were sent via UPS, signature required, to verify receipt. The documents cover a time period of approximately 13 months, from the filing of the claim on 10-30-06 through November of 2007

My background and experience is important to the complaint reviewer, to evaluate my credibility, the credibility of the documents, and the credibility of my complaint. The documentation is extensive and in some cases geotechnical, so I ask you to please be patient in your review. I wish that there was a short and easy way to document, and present evidence of fraud, bad faith, negligence, and obstructions to an insurance claim investigation, but there is no short version.

Background Of Policy Holder

I am a Geotechnical Consultant with 30 years of experience investigating, documenting, and providing expert services on a variety of land use projects, including insurance damage claims investigations. These investigations included damage to residential structures, just like the damage to my home. I am also a former Police Officer, with a more than average knowledge of criminal law and the insurance codes. (CV at www.geo-tech-imagery.com.)

General Site History

My home was constructed in 1982, and the Master Bedroom and Bathroom are of single story, slab on grade construction. Wawanesa Insurance has been my home insurer from January of 1993 to the present (Tab 29), and this is the first time in that fourteen (14) year history that we have filed a claim. There has been no water leaks, no damage to the home, or any instability in the twenty-four (24) year life of the structure, leading up to the October 30, 2006 claim.

The third week in October of 2006, the Master Bathroom and Master Bedroom concrete foundation slab, started cracking and moving differentially, shearing overlying floor tiles. There was no damage prior to that time that would have indicated to a homeowner, that a claim should be filed with his insurance company. The type of observed damage was typical of what I had observed many times in my professional career, which was related to a water\soil interaction. The most likely source of water was the bathroom sewer lines, located directly below the damage, as all pressurized water lines ran overhead in the ceiling. A claim was immediately filed with Wawanesa Insurance under claim #505179.

Wawanesa's Expert Consultants

Cabrillo Geotechnical, Inc. and Earthquake Engineering, Inc., did separate site inspections, neither of which went beyond a visual inspection (Tabs 4 & 10), even though all observable physical evidence indicated that a full subsurface investigation, with destructive inspection was necessary to determine the cause of damage. Cabrillo Geotechnical's site inspection was so poorly done, that Wawanesa Insurance was forced to bring in Earthquake Engineering, to do a new investigation, to try and prop up a pending denial of coverage based on no leak and no damage.

- There was no destructive inspection, no sub slab investigation, no exploratory test pits, no site soil or geologic mapping, and no soils testing or analysis by any Wawanesa Insurance expert consultant, at any time (See Reports Tabs 4 & 10). Cabrillo Geotechnical and Earth Quake Engineering even had totally opposite opinions on the existence of a leak and the cause of damage. Guesses, and unsupported erroneous opinions from these consultants were readily accepted by Wawanesa, and even misrepresented by Wawanesa, as long as it could be made to fit policy exclusions. Earthquake Engineering's opinions on the cause of the sewer pipe failure appeared to be copied from policy exclusions, with no supporting data or physical evidence.

Wawanesa was aware of, and advised in writing of all of these omissions and errors, and those written notifications are in the documentation with signed UPS delivery receipts.

The failure of Wawanesa Insurance to properly investigate the claim forced us to hire a geotechnical firm to come in, and complete the investigation, at a cost of over \$20,000.00. Our consultants, Helenschmidt Geotechnical, Inc., (Tabs 17 & 26) established, with full documentation, that all of the guesses and unsupported opinions by Wawanesa's consultants were wrong. The Helenschmidt Geotechnical Investigation included site geologic mapping, exploratory test pits, soil sampling, testing, and analysis, and removal of the shower and parts of the foundation slab, to inspect the subfloor soils and plumbing, at the verified leak source. Large tree roots, growing around the sewer pipe broke the connection, causing the leak. The only trees anywhere near the pipe failure, are located on the next-door neighbors property to the north.

The Helenschmidt Geotechnical Investigation established that there was:

1. No long term leak. It was actually short term, and rapid matching all damage reports.
 2. No Substandard Installation of anything was involved in the sewer pipe failure.
 3. No Neglect, with mythical and undocumented accusations of previous repair attempts to plumbing. Plumbing that could not even be seen without removing the shower pan.
 4. No landslide, no volcanic eruptions, no mud flow, no earthquakes, no mine settlement, or any other geologic hazard.
- Just tree roots, from the neighbors trees, forcing a separation of the subsurface sewer pipe, away from the bottom of the shower drain, and a

documented history of a neighbor that had been advised many times, that the close proximity of the trees was a hazard to our home.

Wawanesa Insurance ignored the first Helenschmidt Geotechnical report, in their second letter of denial, stating it contained no new information. A report that established, with a complete subsurface investigation, that all of Wawanesa reasons for denial of coverage, were wrong. Wawanesa also extended their misrepresentations of material facts, to the opinions of their own consultants, to try and prop up exclusions that were falling apart under expert inspection. As various policy exclusions were discredited, new previously undisclosed exclusions would suddenly appear. Some of which had been previously removed from the policy with policy change notifications.

Sections of the concrete slab were cut and removed, as part of the Helenschmidt Geotechnical Investigation, to trace and remove tree roots, and to allow direct testing and inspection of the subsurface soils below the damaged slab. Our expert, Atlas Environment, Inc. (Tab 23, Plant Expert), verified that the tree roots were from the neighbors Eucalyptus trees, verifying Third Party Negligence. Additional soil sampling and testing was done by Helenschmidt Geotechnical (Tab 26) for additional supporting evidence, of a short-term leakage with rapid collapse and associated rapid damage. These reports were also submitted to Wawanesa. A third letter of denial was issued with the same misrepresentations as the first and second letters of denial, and the new supplemental expert reports were simply ignored again.

Claim Handling

The documents in the attached 3 ring binder, show a history of Wawanesa Insurance failing to properly investigate the claim to a sufficient degree to verify the cause of damage. Wawanesa Insurance misrepresented material facts, obstructing, restricting, and delaying the investigation process, at all stages of the claim investigation.

Insurance companies are not stupid, and they clearly know, from experience, which consultants to hire, to get the answers they want, and which consultants will become advocates, and abandon their roll as impartial investigators in order to secure future work assignments.

1. Wawanesa Insurance intentionally allowed Cabrillo Geotechnical and Earthquake Engineering to do incomplete and substandard work, as long as the investigation cost were kept down, and no evidence was documented, that could lead to a covered loss.
2. Written notifications to Wawanesa, with detailed information about incomplete and substandard investigations by consultants were ignored.

3. Wawanesa Insurance adjustors and consultants continually pushed the idea that there was no leak, and therefore no coverage. When the leak was eventually located, and verified as the cause of damage, Wawanesa immediately shut down the investigation, left the site permanently, and all direct communication stopped.
4. All future expert consultant work, done for the homeowner, was ignored by Wawanesa in a headlong rush to deny a legitimate claim with a value of over \$50,000.00
5. All future requests, to Wawanesa, for direct communications on the claim investigation and letters of denial, were rejected or ignored by Wawanesa.
6. All areas of potential coverage in the policy were ignored, while every available exclusion was dumped into the letters of denial of coverage, without supporting expert documentation.
7. Written notifications of misrepresentations, errors, and omissions in Wawanesa's letters of denial, were ignored.
8. We had to retain expert consultants to complete the investigation that should have been done by Wawanesa in the first place, as is required by the insurance codes.
9. Wawanesa also made representations, that supplemental reports and additional work by Cabrillo Geotechnical and Earthquake Engineering, supported their original opinions had been done, but refused to share the information or reports with the policy holder. Their consultants never returned to my home for any additional work following the initial detection of the broken sewer line and associated water leak.
10. All expert reports that were in conflict with Wawanesa's rush to deny coverage, were ignored, and labeled as "no new information".
11. Multiple misrepresentations of material facts were made by Wawanesa employees, in the letters of denial, in violation of California State Penal Code Section 550(b).

All of the above is documented in the attached 3 ring binder of documents. I wish I could say that this type of conduct, from homeowner insurance companies is rare, but that is not the case. As a consultant, with 30 years of experience, I have lost track of the number of homeowners that I have seen lose legitimate insurance benefits, when insurance companies just walk away, because they can. Civil litigation, usually cost more than the damages, and insurance companies clearly understand these economic facts, and take advantage of them, to deny legitimate insurance benefits. It is also not the first time that I have

seen insurance company employees commit felony criminal conduct in the handling of an insurance claim. That is also more common than you might think. I hope this complaint does not fall on someone's desk that is too over worked. This level, of verifiable documentation, against an insurance company, does not come along everyday.

The Department Of Insurance is the only viable and accessible chance of protection for everyday citizens, that have mortgage mandated homeowner's insurance policies, that have literally become almost worthless.

If I can provide any additional information or assistance, please do not hesitate to contact me.

Respectfully Submitted,

Woodrow L Higdon