



## Policyholders *Can* Win in Appraisal

The term “appraisal” means something very different in the insurance world than it does in the real estate world. In the insurance world, an appraisal is a process that is supposed to efficiently resolve conflicts over the cost of repairing or replacing damaged or destroyed property.

There is often a wide gap between cost estimates prepared by contractors selected by property owners versus estimates prepared by insurance company-selected contractors. The gap can be closed through negotiation, litigation, mediation or appraisal.

**“When conducted fairly and efficiently and in the right claim scenario, appraisals can save time and money. But because the appraisal process is well understood by insurers and little understood by insureds, it can compound claim problems and result in costly delays.”**

--UP Amicus letter to CA Ct. of Appeal in *Kacha v. Allatate*

Standard form property insurance policies have long contained a section that allows either the insured or the insurer to call for an appraisal when a dispute arises over the amount of the loss. Generally, insurance appraisals are conducted by a panel consisting of a “party appraiser” picked by each side and a neutral umpire to break any deadlock in their findings. The panel examines evidence (estimates, plans, and sometimes testimony) and produces a written appraisal “award” that sets the amount the insurer owes for the repairs. The award is either accepted or challenged by the parties.

Few claimants know about the process or how it works unless they receive a “demand for appraisal” from their insurance company or its attorney. Where the insurer is using an attorney to handle an appraisal, the claimant generally should too, which means the insured has to pay attorney fees on top of their party appraiser fees and half the umpire’s fees. Appraisals can get very expensive and time-consuming. Some states have taken legislative action in recent years to make appraisals optional and informal.

UP has helped enact legislation in California to keep insurance appraisals fair, fast and economical, and continues to monitor the process and serve as an information resource for policyholders.

## Appraisal Pros:

- If conflicting estimates differ only in the prices of materials and labor, an experienced panel can pick reasonably accurate figures and settle the dispute.
- An appraisal can be completed in a few months.
- In many states, an appraisal can be done without attorneys or a hearing.
- Appraisers can apply construction trade experience to evaluate plans and estimates and settle technical disputes.

## Appraisal Cons:

- Appraisers are not supposed to decide issues outside the “actual cash value” or “amount of loss” but often do.
- Appraisals can take just as long and be just as expensive and formal as litigation without resolving all disputed issues.
- Experienced party appraisers willing to work for insureds are hard to find while those who work for insurers are plentiful.

## Resources:

1. *The Law and Procedure of Insurance Appraisal*, by **Jonathan J. Wilkofsky**. This book offers very detailed information on appraisal procedure and applicable law. The author is a dedicated policyholder advocate and the founding and managing partner of the New York law firm of **Wilkofsky, Friedman, Karel & Cummins**. He serves as General Counsel to the **New York Public Adjusters Association** and an advisor to Citizens Against Unfair Insurance Practices. To order the book from Ditmas Park Legal Publishing in New York, call toll-free 1-888-791-7781.
2. **“Appraisal – Definition and use in Insurance – To assist in the resolution of a claim”** Article by public adjuster **Stanley Kaufman**, copy available upon request from UP.

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