

## Coverage Corner

Often when a client of ours buys a new house they want to make it their own and they plan extensive renovations to meet that end. We will discuss with them, what they are planning, how long it will take and where they will be staying, among other things. This can at times lead to frustration with the agency for “asking too many questions.” We try our best to explain that all of the questions we are asking are, for their own good, so that we get the correct type of policy in force on the property and there is no question about coverage at the time of a loss.

Recently, in one of my industry publications there was some discussion on this very topic in the legal section. This discussion included specific cases and it included the rulings in the cases. I believe that it demonstrates the need to ask the correct questions and the complexity of the insurance product that you are purchasing from your (hopefully) local agent.

Here is the gist of the article and the related questions. This case was decided in the NYS Supreme Court. It involved fire damage to a house that was in the process of renovation. The house was purchased Jan 11<sup>th</sup> 2007 and insured with a Homeowners Policy. The fire occurred on Jan 26<sup>th</sup> 2008 and the carrier denied the claim for the fire damage.

The new owner allowed his son and girlfriend live there prior to the renovation beginning but he at no time moved into the house. He did testify that he intended to after the renovation process.

The carriers argument was, the insured misrepresented on the application by stating this was to be his primary residence and then he never resided there. Their second argument was, since he did not live in the dwelling, the policy does not cover the dwelling. This is because the policy states, dwelling coverage applies to, “a dwelling located on the ‘residence premises’ as defined on the declarations page.” The policy then goes on to define the “residence premises” as, “where you reside **and** which is shown as the ‘residence premises’ on the declarations page. That is a very longwinded way of saying you need to be clear and truthful on what your intentions for the new property are and you must live there for the coverage to respond.

The owners’ argument was, he did not misrepresent the risk to the carrier because, he had intended to live there at the time of application. He also stated that certain perils actually refer to dwellings under construction so that should not have any bearing on the decision. Lastly, he felt that the interpretation of “residence premises” should be left up to a jury to decide not a carrier.

The NYS Supreme court decided that the phrase “where you reside” in the definition of “residence premises” was unambiguous. Therefore, it must be interpreted to its plain and ordinary meaning. It also pointed to a similar fact pattern in another NYS Supreme Court hearing where the court supported a carriers denial of coverage where the insured had never lived in the dwelling. The long and short of this case is that the NYS Supreme Court appears to be siding with the carriers in allowing denial of coverage based on whether or not you ever resided in a dwelling.

I think that the moral of the story is simply, when your (hopefully) local agent begins to ask “too many” questions about what your plans are with the new house, how long they are going to take, where you’ll be living, who will be living in the new house etc., you will realize that they are doing this to determine the best policy for you and not for any nosy or nefarious reasons. The most expensive insurance in the world is the kind that does not respond when you expect it to.

Thank you for reading and participating and remember “don’t be cornered by your coverage.”

This column is strictly for general insurance information please consult your local agent for the specifics of your insurance program.

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