

Up In Smoke – Steps to Rebuilding after Wildfire Damage

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You don't expect it to happen; it's usually something watched on the news. But suddenly, your life is in turmoil because your home has been lost or damaged by wildfire. Where do you turn, what do you do, who can help?

I. First Step – Before it Happens

If you live in a wildfire danger zone, before anything happens you need to prepare for the contingency. Just as you have a plan of escape for your family members and pets if your house catches fire, you need a plan for your essential documents - make sure you have safeguarded your mortgage papers, insurance policies, vehicle title slips and even your passports. Whether you put them in a fireproof safe, bank safe deposit box or give duplicates to someone you trust, being prepared for the possibility is the first step to a fast recovery.

II. Second Step – When it Happens, Immediately File Your Claim

When a wildfire forces you to evacuate, your lifeline becomes your homeowner's insurance. After you have safely evacuated, even before you receive word that your home has been lost or damaged, call your insurance company and put them on notice of the potential claim. Most insurers provide 24-hour or emergency phone lines for their customers. (Don't forget to call back and let the insurance company know if everything turns out okay.) Depending on your coverage, you may be eligible to receive emergency benefits or monetary advances that can help with the costs of a hotel, food and incidentals.

If the fire is on the scale of November's Tea Fire in Montecito, Sesnon or Sayre Fires in the San Fernando Valley, or the Freeway-Complex Fires in Yorba-Linda/Corona, there can be additional emergency aid. Assistance through the county, state or FEMA may be available, but keep in mind that you will be vying with scores of other homeowners all trying to get the attention of a handful of workers or to get through on emergency phone lines to aid programs.

III. Third Step – After the Emergency Subsides

There are different options you have to choose from once the fires are out and you have confirmed your loss. For purposes of this article, the focus is on the homeowner who wants to repair or rebuild their home rather than relocate and cash out on the value of an insurance policy.

Very soon after the fire, you may be approached by companies marketing construction services or by contractors directly. Many have integrity and are genuinely interested in a working with you, both to obtain your business and to provide you with value for the work they perform; others may not be. What you can do to protect yourself before signing a contract is simple and invaluable.

A. Is the Contractor Licensed

Every contractor in California must be licensed by the California State Contractors License Board ("CSLB"). Fraud in these circumstances is unfortunately, almost inevitable, and has already occurred with homeowners from the Sayre fire (see the CBS report: <http://cbs2.com/local/Sylmar.fire.contractor.2.885201.html>). One of the easiest actions you can take to protect yourself is to check a contractor's license status with the CSLB. You can look up a contractor by license number, company name or by an individual's name using the prompts at www.CSLB.CA.Gov or by calling the CSLB at 1-800-321-CSLB.

When you find your contractor listed with the CSLB, make sure they are not only licensed, but have the proper license classification for the work. For example, a general contractor performing many different types of work should have a Class "B" license; an electrician should have a Class "C10" license; and a landscaping contractor should have a Class "C27" license. If you find the contractor does not have the proper license for the work, do not hire that contractor. Similarly, if

you cannot locate any license information for the contractor, ask for clarification and check again. You should also inquire directly with the contractor as to the type of insurance and extent of insurance coverage the contractor maintains. At minimum, each contractor should have workers' compensation and general liability insurance.

B. The Work Being Performed Will Determine the Contract Requirements

Generally speaking, there are two kinds of contracts for work after a wildfire – repair of a damaged home, or a complete rebuild. Whether the work falls in one or the other category will determine the appropriate type of contract.

Contracts for home repair work valued over \$500 are regulated by the California Business and Professions Code Section 7159. Licensed contractors must comply with a multitude of requirements for home improvement contracts under Section 7159. The requirements are there for your protection and among other things, limit the amount of the down payment contractors can charge and require contractors to specify the date they will start and complete your project. Have your contract reviewed by a construction law attorney to determine whether or not the contract complies with the laws governing home improvements contracts before you sign on the bottom line.

A complete rebuild is a different matter. Because of the complexities inherent in new construction, such work is not bound by the home improvement contract requirements. For new construction, there are a number of different contracts you may be presented with, both standardized and customized. Keep in mind that contracts outline the duties and responsibilities between the contracting parties and shift risks between the parties to the contract. In evaluating a proposed construction contract make sure you understand and agree to the proposed terms before entering into the contract and consider retaining a qualified construction law attorney to help you negotiate a contract that properly protects your interests.

C. The Work Performed Can Create Lien Rights Against Your Property and Construction Funds

Any work performed by a licensed contractor will create potential mechanics' lien rights against your property in favor of anyone working or supplying equipment, services or materials to your project. Any potential claimant without a direct contract with you however, must provide you with what is know as a 20-Day Preliminary Notice before they can assert a valid claim for a mechanics' lien against your property or a stop notice claim against your construction funds. Mechanics' liens and stop notices are used by contractors to secure their payment claims against the property they improve and the construction funds used to finance the improvements. When you contract for work, you need to have an understanding of how these remedies function, when they are triggered and what you can do to defend yourself if the circumstances arise. In this case, the old adage of "forewarned is forearmed" carries significant importance. If you do not know what these construction mechanisms do – ask! Ask your contractor or better yet, ask a qualified construction attorney.

IV. Conclusion

I am a partner with the construction, real estate and business firm of Green & Campbell, LLP in Simi Valley. I know that the loss of a home for any reason is overwhelming and hope this article has provided some useful information. For questions or comments regarding this article, please send me an email at todd@gdclawyers.com or call me at (805) 306-1100, ext. 16 and I'll do what I can to help.

Please note that this article is only intended to provide some general educational information on how to deal with a wildfire home loss. Deciding an exact course of conduct is a decision you should make only after a complete assessment of your situation and reviewing the current laws, facts, and circumstances of your situation with an experienced construction law attorney.