



# PERSPECTIVES

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## **Middle Market Builder's Risk: A Recipe for Success**

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## INTRODUCTION: PERFECTING THE FORMULA FOR BUILDER'S RISK CLAIMS MANAGEMENT

A builder's risk (BR) claim is a type of insurance claim that arises during construction. A BR insurance policy is meant to protect property and construction materials during a construction or renovation project and covers property on construction sites when it's damaged or destroyed by fire, vandalism, or other unexpected events. Typically, coverage ends when the project is complete.

Good practices and standards assist in supporting the resolution of builder's risk claims. Specifically, the goal of experts who aid clients with BR claims should be to understand the project, understand the loss, communicate the process, and support the management of the claim.

In this paper, we share the secret recipe for successfully managing middle market builder's risk claims. The following is intended for insurers, adjusters, and attorneys to aid in understanding the complexities of expert claim review from start to finish.

### STEP 1: START WITH "NATIVE TONGUES"

It is most productive when all parties can communicate effectively with one another. Many builder's risk experts were builders earlier in their careers so they "speak the language" of the insured and know the construction terminology that the insureds (owners, developers, or contractors) use. Beyond common vernacular, BR experts also understand the construction process, the sequence of work, and the challenges of construction. This expertise provides insurers and adjusters with information that facilitates decision making. This includes how to read and interpret contract drawings, contracts, and schedules, and asking pointed questions that are critical to the claim. Experienced BR experts also know what to look for during a site inspection. They can identify the relevant indicators of progress to assess whether a project may have been lagging prior to the loss or was on track to achieve timely success.

### STEP 2: ADD SOME "KICK"

At the onset of a BR claim, it is important to facilitate a "kick-off" meeting with the insured, the adjuster, and the builder's risk expert. A good kick-off meeting brings the parties together to achieve mutual understanding of the project prior to the loss. It also serves to communicate the details of the loss itself, establish the objectives and needs of the parties involved, and confirm the claim process that will be followed. The kick-off meeting also sets the tone for cooperation rather than combative conflict. It is important that during this initial meeting all parties achieve a mutual understanding of the entire project and its pre-loss status, not just the damage due to the loss. It is at this meeting that potential coverage issues that need to be clarified are identified by the adjuster or insurer—the earlier the better—to facilitate a smooth settlement of the claim.

This meeting also provides the insured with an understanding of why certain project documents are needed for evaluation of their claim. Often when an insured understands how documents are used in the claim process, they are more forthcoming with documents and are more likely to provide the most relevant documents. Lastly, the kick-off meeting can often serve to educate the interested parties in the construction process. Talking through and understanding the relevant construction issues associated with the claim (i.e., long lead times for materials and why authorization to order materials is necessary) makes it easier to understand and adjust the claim.

### STEP 3: SPRINKLE IN OTHER EXPERTS AS NEEDED

Builder's risk is unique because a single BR claim can involve several different types of experts (i.e., forensic accounting, forensic engineering, roofing, equipment, origin & cause, environmental health & safety, etc.) depending on the type of loss. But when is the best time to determine which experts are needed? As early as possible, especially considering the variety of expertise that may be warranted. This also ensures critical and relevant data is collected in a timely manner (i.e., photos or samples of the debris for forensic engineering to review prior to demolition/clean up). Having a forensic

accountant on board early in the claim process can help set expectations for the insured regarding what financial documentation will be needed to support a soft cost/business income claim. Having an environmental, health & safety expert involved early on can help in evaluating what moisture mitigation efforts are necessary and in heading off any mold-related issues (or high mitigation claim costs). Lastly, it is often effective to have a builder's risk expert perform the initial site inspection and photo document the status of the project site as soon as the loss occurs (or as soon as the site has been released by the authorities having jurisdiction).

## STEP 4: MIX WELL

Regularly scheduled meetings with the parties are critical to keeping the claim moving toward resolution. Whether these meetings are held weekly, bi-weekly, monthly, or quarterly, depends on the stage of the claim, the scope of the repairs, etc. These regular meetings provide the collective team with real-time updates on site progress and any concurrent delays. It is an opportunity to confirm what documents have been received and identify those that are still outstanding. Regular meetings also serve to identify and communicate issues as they arise, so they can be resolved in a timely manner. This can be especially true if coverage issues arise. Meeting regularly also keeps parties accountable for meeting their committed deadlines or at least communicating any issues preventing those deadlines from being met.

One of the greatest benefits of hosting regular meetings with the insured, the adjustment team, and the experts is that it keeps the parties talking to each other instead of going into their separate corners to write position letters. Unfortunately, when communication and goodwill break down, it can create the need for attorneys to bridge the gap. Even a short five-minute meeting to get an update on site progress and communicate that certain open issues are still in review is beneficial to keeping the parties acting in good faith.

## CONCLUSION: ENJOY!

Engaging the right experts early in the claim process cannot be recommended too strongly. Getting them together for a thorough kick-off meeting to set expectations and exchange goodwill, and keeping the parties communicating regularly throughout the claim process is a recipe for good communication and cooperation between the insured and adjustment team and will help ensure the successful resolution of claims.

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