

# Methodology for Assessing Thompson & Long Settlement Classes' Claims for Diminution in Value (DV)

A multi-step process involving:

- Initial Assessment: The process begins with an initial assessment by the claim handler that identifies whether there may be DV associated with the claim.
- Evaluation: If the initial assessment is that there may be DV then the claim handler refers that task to the Thompson - Long Review Team (TRT) for further review and evaluation of DV.
- Documentation: Decisions concerning the DV assessment and evaluation are documented in the claim file by the claim handler and/or TRT.
- Communication: The decision concerning DV is communicated by the claim handler in writing.
- Payment: If the loss involves DV the claim handler makes payment to the policyholder using reason code DIM.

The following addresses how this job aid should be applied when assessing and evaluating DV on Coverage A - Dwelling claims of the Thompson and Long Settlement Class Members. The policy references within this document are from the Homeowners policy.

Identification of the claims which may be part of the Thompson and Long Settlement Classes will be provided. The claims should be assessed for DV on each covered loss under Coverage A - Dwelling, regardless of whether DV is asserted or specifically claimed by the Class Member. The "Methodology for Assessing Thompson & Long Settlement Classes' Claims for Diminution in Value (DV)" should be applied to covered damage involving Coverage A- Dwelling. Any non-covered damage should not be part of the assessment process (for example, wear and tear, deterioration). Except as explained below, we should not contact Class Members without court approval.

## What is DV?

In the state of Georgia, generally DV:

- May refer to any amount by which property's pre-loss value exceeds the property's value post-repair. State Farm Mutual Auto. Ins. Co. v. Mabry 274 Ga. 498, 505 (2001).
- Is "the difference between pre-loss value and post-loss value... modified by repair ...so that the measure would be the difference between pre-loss value and post-loss value." Id. The post-loss value, assuming repairs have been completed, generally should be determined as of the date of loss, if possible. A proper repair is assumed in measuring the difference between pre-loss value and post-repair value as of the date of loss regardless of whether the property has been repaired.

### **What is “Stigma”?**

- In Georgia “stigma” is equated with a loss in value despite repairs. Royal Capital Development, LLC. v. Maryland Casualty Co., 291 Ga. 262, 266 (2012); City of Stone Mountain v. Black, 340 Ga. App. 630, 631 (2017).
- Appraisal Industry sources, guidelines and literature are consistent with the view that stigma may best be understood as lost market value due to negative public perceptions about the property caused by some event.
- Stigma damages should be considered in a DV assessment when the stigma is a result of covered damages.

### **Does DV Include Sentimental Value?**

- Objective, not subjective, valuations generally determine the fair market value of the property at the time of loss or injury, and an award generally will not exceed fair market value pre-loss.
  - In some circumstances, DV may include value that is specific to the owner of the property that is separate and apart from sentimental value. If a Class Member indicates this as a basis for DV, elevate to State Farm management for review on a case-by-case basis.

### **Does DV Include Market Conditions?**

- Fluctuations of value due to market conditions should not be considered in the evaluation of DV. This is because fluctuations in value due to market conditions are not covered under the policy. A DV assessment should, as best as possible, only consider DV associated with covered losses and covered damages, not DV caused by non-covered losses and non-covered damages.
  - DV is the pre-loss value on the date of loss, compared to what would have been the post-repair value of the property on the date of loss. Therefore, post-loss market fluctuations generally should not be considered.
  - If the Class Member provides information to the claim handler for consideration based on the fluctuation of market conditions, and not the covered loss and covered property, provide this information to State Farm management for review as needed.

## **Methodology for Assessing Thompson & Long Settlement Classes' Claims for DV**

The initial step is the consideration of whether there may be DV caused by a covered loss.

- Claim handlers should assess all covered losses for DV under Coverage A – Dwelling.
- The assessment is based on the individual characteristics of each claim.
  - Generally, DV is the difference between pre-loss value and post-loss value, modified by repair, so that the measure would be the difference between pre-loss value and post-loss value. The post-loss value, considering repairs have been fully completed, generally should be determined as of the date of loss if possible.
- DV relates to covered property from a covered loss.
  - Non-covered property should not be included in the assessment of DV.
  - A non-covered loss should not be included in the assessment of DV.
  - In the event a claim includes both covered and non-covered property, or covered and non-covered losses, when assessing for DV, only consider the portion of the property or loss covered under the policy.
  - During the course of assessing DV, subject to State Farm claim management approval, State Farm may consider the assistance of independent experts to help with the assessment. Experts must be qualified to render an objective professional opinion. The selection of experts should be based on the needs of the claim file. When an expert is retained, the expert will provide an assessment of DV associated with the covered loss, and State Farm will apply the policy contract. The decision regarding the DV assessment rests with State Farm and must be based on available information, the facts of the loss, and the policy contract. Below is a list of potential experts to consider, if needed, based on the facts of the covered loss. Note that this is not an all-inclusive list:
    - Real Estate Appraiser, for example:
      - State Certified Residential or State Certified General Appraiser for Residential Properties
      - State Certified General Appraiser for Commercial Properties
    - Real Estate Agent
    - Home Inspector
    - Structural Engineer
    - Specialized Appraiser
    - Industrial Hygienist
    - Contractor
  - When an independent expert is retained to assist with the assessment, inquire if the independent expert expects to complete their assessment with or without an inspection of the property. Provide the retained independent expert photograph(s), building estimate(s) and/or prior expert reports, if applicable. Discuss with the expert covered versus non-covered damages and provide any additional information which may assist the expert in the expert's independent analysis. Do not provide ECS File Notes or confidential information.

- If the retained independent expert states they will complete the assessment without an inspection, send the referral and calendar for receipt of the independent expert's written analysis. After receiving the report, verify the report only addresses covered property from a covered loss and proceed with the assessment. The retained independent expert's findings with respect to DV should be accepted, provided that any DV indicated in the findings is the result of covered damage to covered property.
- If the retained independent expert states they will need to inspect the property to complete the assessment, contact the Class Member, in a manner approved by the court, to schedule an appointment for the retained independent expert to inspect the property. Send the referral to the independent expert. Following the inspection, calendar for receipt of the independent expert's analysis for review. After receiving the report, verify the report only addresses covered property from a covered loss and proceed with the assessment. The retained independent expert's findings with respect to DV should be accepted, provided that any DV indicated in the findings is the result of covered damage to covered property.

In general, when repair and/or replacement of real property for Coverage A – Dwelling losses is completed and no stigma related to the covered repairs exists, there usually will be no covered DV.

At times, repairs and/or replacements could include betterment, such as, but not limited to, new roofing, paint, flooring, fixtures, framing, and cabinets.

- **Circumstances which may require additional investigation to consider whether DV exists after completion of the covered repair and/or replacement:**
  - Foundation cracks, collapse, sinkhole or other structural damages
  - Covered losses involving contamination
  - Category 2 and 3 water losses according to IICRC standards
  - Class 3 and 4 water losses according to IICRC standards
  - Covered fungus loss

However, each claim should be evaluated on a case by case basis and on its own merits.

- **Circumstances when property value would not normally sustain DV after completion of the covered repair and/or replacement:**
  - Replacement or repair of roof covering (for example: shingle; shake; tile)
  - Total replacement of floor covering in the damaged room
  - Total house replacement
  - Full kitchen or bath replacement
  - Category 1 water losses according to IICRC standards
  - Class 1 and 2 water losses according to IICRC standards

However, each claim should be evaluated on a case by case basis and on its own merits.

## Communicating DV Determinations

- **When the initial assessment indicates there may be DV**
  - If the claim handler's assessment determines DV may apply to a claim, the claim handler should send a task to the TRT for additional analysis.
    - **Claim File Documentation and Communication**
      - The claim handler should:
        - Document in the ECS File Note the basis for the current assessment that there may be DV associated with the claim using the Category "Diminished Value", and
        - Send a task to the TRT for additional analysis.
  
- **When the initial assessment concludes there is no DV**
  - If the claim handler's assessment concludes DV does not apply to a claim, the claim handler should proceed as follows:
    - **Claim File Documentation and Communication**
      - The claim handler should:
        - Document the assessment in the ECS File Note using the Category "Diminished Value",
        - Contact the Class Member, with an approved letter, providing the DV decision.
        - The letter will advise the Class Member that if they have any further questions, concerns or wish to submit any additional information, such questions, concerns or additional information should be immediately provided to us in writing. In the event the Class Member contacts us in a form other than writing, document the contact in an ECS File Note using the Category "Diminished Value" and respond in writing to the inquiry from the Class Member.
        - If the Class Member provides additional information, and after the claim handler's review the assessment is unchanged, notify the Class Member in writing with an approved letter.
        - If the Class Member provides additional information and after the claim handler's review, it is determined that DV may apply to the claim, the claim handler will send a task to the Thompson - Long Review Team (TRT).
      - If at any point during the assessment process, the claim handler determines the need for additional assistance the claim handler should

discuss with State Farm claim management and/or send a task to the TRT.

### **TRT Review and Analysis**

- The TRT should review the assessment completed by the claim handler.
- If after further review and analysis, the TRT determines:
  - There may be DV associated with the claim, continue to the Methodology to Evaluate.
  - There is no DV, the TRT documents the analysis and basis for the decision in the ECS File Note and sends a task back to the claim owner. The claim owner/claim handler will notify the Class Member of the DV decision in a written manner approved by the court.
    - The letter will advise the Class Member that if they have any further questions, concerns or wish to submit any additional information, such questions, concerns or additional information should be immediately provided to us in writing. In the event the Class Member contacts us in a form other than writing, document the contact in an ECS File Note using the Category “Diminished Value” and respond in writing to the inquiry from the Class Member.

**Methodology to Evaluate Class Members' Claims Once the Initial Assessment Determines the Loss under Coverage A – Dwelling May Include DV**

The TRT will provide a consistent application of the methodology to evaluate losses which may have DV.

- During the course of TRT's evaluation, the TRT may consider the assistance of independent experts to help with the evaluation. Experts must be qualified to render an objective professional opinion. When an expert is retained, the expert will provide an evaluation of DV associated with the covered loss, and State Farm will apply the policy contract. The decision regarding the DV evaluation rests with State Farm and must be based on available information, the facts of the loss, and the policy contract. The selection of experts should be based on the needs of the claim file. Below is a list of potential experts to consider, if needed, based on the facts of the covered loss, this is not an all-inclusive list:
  - Real Estate Appraiser, for example:
    - State Certified Residential or State Certified General Appraiser for Residential Properties
    - State Certified General Appraiser for Commercial Properties
  - Real Estate Agent
  - Specialized Appraiser
  
- When an independent expert is retained to assist with the evaluation, inquire if the independent expert expects to complete their evaluation with or without an inspection of the property. Provide the retained independent expert photograph(s), building estimate(s) and/or prior expert reports, if applicable. Discuss with the expert covered versus non-covered damages and provide any additional information which may assist the expert in the expert's independent analysis. Do not provide ECS File Notes or confidential information.
  - If the retained independent expert states they will complete the evaluation without an inspection, send the referral and calendar for receipt of the independent expert's written analysis. After receiving the report, verify the report only addresses covered property from a covered loss and proceed with the evaluation. The retained independent expert's findings with respect to DV should be accepted, provided that any DV indicated in the findings is the result of covered damage to covered property.
  
  - If the retained independent expert states they will need to inspect the property to complete the evaluation, contact the Class Member, in a manner approved by the court, to schedule an appointment for the inspection. Send the referral to the independent expert. Following the independent expert's inspection, calendar for receipt of the independent expert's analysis for review. After receiving the report, verify the report only addresses covered property from a covered loss and proceed with the evaluation. The retained independent expert's findings with respect to DV should be accepted, provided that any DV indicated in the findings is the result of covered damage to covered property.

- When evaluating for DV, assume the covered damage has been fully repaired regardless of whether it was repaired or not:
  - Consider the pre-loss value of the property on the date of loss.
  - Consider the post-loss value of the property, taking into account the post-loss repairs to the insured loss. At this step, assume the covered damage is fully repaired. The post-loss value is determined by what would have been the value of the fully repaired property on the date of loss.
  - Compare the difference, if any, between the post-repair value and the pre-loss value.
    - If post-loss repaired value on the date of loss is greater than or equal to pre-loss value on the date of loss, there is no DV.
    - If post-loss repaired value on the date of loss is less than pre-loss value on the date of loss, DV exists.
  - If there is a difference, confirm that the difference is the result of damage to covered property from a covered loss.
  - When evaluating for DV do not include non-covered losses; non-covered property; and/or non-covered damage or loss including stigma associated with these non-covered items.

#### **Claim File Documentation and Communication**

- Once the evaluation is completed, the TRT should:
  - Document in the ECS File Note the basis for the evaluation using the Category “Diminished Value”, and
  - Send a task to the claim owner
- The claim owner/claim handler:
  - Contacts the Class Member, with an approved letter, providing the DV decision, and
  - Sends the letter advising the Class Member that if they have any further questions, concerns or wish to submit any additional information, such questions, concerns or additional information should be immediately provided to us in writing.
    - If the Class Member provides additional information regarding the evaluation, and after the claim owner’s/claim handler’s review, it is determined that additional DV may apply to the claim, the claim owner/claim handler will send a task to the TRT.
  - Issues any payment due, using Reason Code “DIM”

#### **TRT Reviews Additional Information**

- If after the TRT reviews the additional information provided by the Class Member and the position regarding the evaluation changes:
  - The TRT should send a task to the claim owner outlining the revised position and any additional monies due

- The claim owner/claim handler should notify the Class Member, with an approved letter, advising that the additional information has been reviewed and outline the revised position.
- If after the TRT reviews the additional information provided by the Class Member and the position regarding the evaluation is unchanged:
  - The TRT should send a task to the claim owner outlining the position
  - The claim owner/claim handler should notify the Class Member, with an approved letter, advising that the additional information has been reviewed and the position is unchanged.

If at any time during the claims process, an additional inspection of the covered property may be appropriate, based on the needs of the claim to make a DV decision, State Farm will contact the Class Member, in a manner approved by the court, to schedule an inspection of the property.

**Payment – Reason Code - DIM**

- When issuing a payment which includes DV:
  - Split code the applicable Cause of Loss (COL) on the draft
  - Transaction code would be “D”
  - Apply Reason Code “DIM” to the portion of the payment associated with diminished value
  - Outline the Reason Code “DIM” payment amount in the comments section
  - Mortgage company/loss payee should be included on the DV payment per OG 74-04 Payments and Coding
- Claim handler issues payment after the task is completed by TRT
- Update Summary of Loss Under Coverage A – Dwelling