



The City of New York

Manhattan Community Board 1

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New York State Assembly Standing Committee on Insurance

Insurance Coverage in the Event of a Disaster

**Testimony by
Catherine McVay Hughes, Chair
Manhattan Community Board 1**

**Tuesday, February 26, 2013, 11:00 am
Assembly Hearing Room 1923, 250 Broadway, New York, NY**

Thank you, Speaker Silver and Chairman Cahill, for inviting us to testify today on insurance coverage in the event of a disaster, in this case Superstorm Sandy. I am Catherine McVay Hughes, Chair of Manhattan Community Board 1 (CB1) which is located in Lower Manhattan and is bounded by the Hudson River on the west and the East River on the east with the World Trade Center in its center.

Four months ago, Superstorm Sandy created record-breaking – and heartbreaking – havoc throughout the tri-state area. The storm's impact was deeply felt here in Community District 1, especially in the Seaport area. For example, just a few blocks from here, many residential and commercial buildings were flooded and were heavily damaged, virtually overnight. The storm surge created unprecedented infrastructure damage.

Even buildings that were not physically damaged suffered from the loss of electricity and steam service in the following weeks. Local businesses were also severely impacted by the transportation shutdown because their customers, suppliers and employees could not get to them. Hardships were compounded by prolonged telecommunications outages. For example, a John Street florist, located out of the impacted flood zone, who depends heavily on phone and internet orders, said that these services were restored only two weeks ago and the three months of lost revenues had significant adverse impact on his business.

This is significant, because in many situations devastating losses suffered by retail merchants and individuals have not been compensated by business interruption insurance, or insurance paid by homeowners and renters. Many in our community still await compensation for both. Lower Manhattan has a large number of people who work from home, because of the District's vibrant creative sector and its live-work culture.

Today much of the district has reopened. However, many small businesses, especially in the Seaport area, suffered significant damage and financial distress that may result in loss of their businesses, and the livelihoods of their employees.

The redevelopment of Pier 17 and the commercial spaces now controlled by Howard Hughes Corporation, is about to begin and will require the closing of many businesses that have remained there through these difficult recent months. Some of these merchants have managed to hang on despite a depleted customer base, but more may fail if forced to close during their busiest sales season of the year, in summer, without immediate financial assistance.

Insurance coverage for most small businesses has been inadequate at a time when they most need help to survive. Ancillary insurance coverage for flooding is unaffordable or unobtainable by many of the smallest businesses in Flood Zone A, which comprises a significant portion of District 1. Many small mom and pop retailers, so critical to the recovery of our community, just do not have the time or resources to cope. Additionally, FEMA does not provide coverage for small businesses.

At several Disaster Relief Small Business Task Force meetings convened by CB1 in the months following Sandy, small business owners reported to us that complex and tedious insurance claim procedures have left them in the dark regarding their current finances. Many have complained about insurance companies that have been unresponsive and avoided payment of claims due to narrow, technical reasons.

These business owners have paid insurance premiums in good faith, every month, but are struggling to survive while some insurance companies equivocate and attempt to evade their responsibilities. Business owners have questioned which party has the burden of proving insurance claims. They argue that they should be covered for losses unless insurance companies meet the burden of proof.

The story of one 28-year CB1 resident and business owner, Dr. Jeffrey Shapiro, is as follows:

“In order for business interruption coverage to be triggered, the cause of the service outage must be a cause of loss covered by the insured's policy. The problem which I am encountering is that my business interruption policy is not flood insurance. My insurance carrier is relying on slippery policy interpretation and vague information in making their coverage denial determination. For instance, Con Edison has reported the power outages in lower Manhattan were due to "flood" period. No further information or explanation. However, it is my understanding that when flood waters came in contact with transformers, it caused them to explode. Explosion is an exception to the flood exclusion and the business interruption should be covered. The question is who has the burden of proving what was the exact cause and source of the outage? It is my understanding that the insurance company has the burden of proof. If they cannot meet this burden, then affected businesses should receive coverage for the loss. New Jersey businesses have received coverage for this event as there is more consumer friendly interpretation of insurance coverage in that state.”

We applaud the initiatives by Governor Cuomo, who established an online, report-card system to provide a platform to hold insurance companies accountable for their response to catastrophes like this, and for initiating legislation calling for new regulations to expedite insurance claims.

For this reason, in a resolution passed unanimously on December 19, 2012, Community Board 1 (CB1) urgently requested intervention by the NY State Department of Financial Services to hold insurance companies accountable for their response time, and their compliance with policy terms. Ensuring prompt and equitable insurance settlements are a critically important part of this recovery process. We must also reassess what types of coverage are available and ensure that individuals and business people have the ability to choose plans that provide adequate coverage for all forms of disasters.

Prompt compensation by insurance companies is more important than ever as the deadline looms for negotiating a balanced Federal deficit-cutting package only days away. The outcome – now debated in Congress, could deny \$3 billion in federal aid so desperately needed by victims of Superstorm Sandy. As a community, as a responsible government, we cannot allow this to happen.

Lastly, FEMA has recently released a revised flood map that accounts for the storm surge from Superstorm Sandy. This map will have the unfortunate consequence of increasing rates and making insurance less affordable for many residents and business owners in CB1. As the insurance industry modifies policies to address the rise in sea levels and the increased vulnerability to natural disasters, we must ensure that coverage remains affordable and adequate for a vibrant Lower Manhattan. Thank you for the opportunity to testify today.