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## **California Enforces Law or Ordinance Exclusion in Property Policy**

By Andrew B. Downs

Hard cases do not always make bad law. The California courts reaffirmed their willingness to enforce law or ordinance exclusions even in circumstances where the policyholder has a compelling story to tell.

A City-ordered demolition of the policyholders' home based upon a contractor and architect's mistake was found excluded by a homeowners policy's law or ordinance exclusion in *Reichert v. State Farm General Insurance Company* (Cal. Ct. App., Dec. 28, 2012, certified for publication on Jan. 24, 2012). The case is noteworthy for two reasons: (1) It applies the law or ordinance exclusion to a situation where *demolition* of the entire home was compelled, not where coverage was sought for extra work necessary to bring the building into code compliance; and (2) The policyholders were relatively innocent victims of contractor and architect negligence.

Eric and Lizbeth Reichert commissioned the remodel of a home located in a designated flood zone in Huntington Beach. The Reicherts had to revise their initial remodel plans to avoid triggering a FEMA regulation which would have required the Reicherts to raise the ground floor of the home by nine feet. Those revisions limited the amount of existing walls that could be replaced. During the remodel, however, the Reicherts' contractor and architect discovered that it was impossible to build the home according to the revised plans without replacing several existing walls, which the contractor and architect ordered replaced. Upon its next inspection, the City discovered that the contractor violated the building permit by replacing the walls and that the replacement of the walls triggered the FEMA floor raising requirement. The City could not issue a variance for the project without jeopardizing the City's FEMA rating (and potentially the flood insurance premiums for every resident in the City's flood zone), so it had no choice but to order the entire property demolished.

The California Court of Appeal, Fourth District, held that the policy unambiguously excluded any loss caused by the enforcement of a law or ordinance. The court noted that while the Reicherts had law or ordinance coverage under their policy, that coverage only applied after there was a covered loss, such as a fire. Here, the loss itself was caused by the City's enforcement of the FEMA regulation and therefore was excluded.

*Reichert* is a nice reminder that clear and unambiguous policy language usually is enforceable in California no matter how sympathetic the policyholder's circumstances may be.