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Date: January 14, 2010
Source: Houston Chronicle
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Windstorm insurer picks up pace on Ike settlements

The Texas Windstorm Insurance Association, under fire by state regulators and policyholder attorneys for how it handled claims after Hurricane Ike, is accelerating the pace of settlements.

TWIA has been meeting with policyholder attorneys to resolve cases in batches, said Jim Oliver, general manager of the association.

“In the past, TWIA mediated possible settlements on an individual basis,” Oliver said. “We are now working with plaintiffs' attorneys to handle mediations in groups and deal with them more quickly, which is to everyone's benefit.”

TWIA, created by state government but privately managed, is the windstorm insurer of last resort for homeowners and businesses in coastal counties most vulnerable to hurricanes.

The insurer faces two regulatory investigations and one lawsuit by the Texas Department of Insurance as well as about 1,000 policyholder lawsuits. Oliver declined to say how many cases have been settled.

In a recent letter to the court, attorney Steve Mostyn said that he and TWIA recently settled 24 of 28 cases in two days.

He expects to resolve the majority of his firm's cases through similar settlement meetings, wrote Mostyn, whose firm has more than 600 cases against the association.

In his letter, Mostyn also asked Judge Susan Criss in Galveston to put off depositions — which she did Wednesday — of key TWIA managers scheduled for next month in light of the new focus on settlements and

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because the insurer is still producing documents requested by plaintiff's attorneys. The depositions have been postponed until late March.

Mostyn said the settlements signal a significant shift by TWIA from what was contentious litigation to "a fair approach" to dealing with lawsuits.

"I believe that TWIA has decided to settle cases because the discovery process has revealed that there was under payments of claims and TWIA has decided to address these issues," Mostyn said. "I give them credit for that appreciation and new approach. I think the results are productive and I encourage its continuation."

One lawsuit Mostyn filed alleged that internal e-mails demonstrated TWIA unfairly handled homeowner claims.

The lawsuit contended that TWIA used prices lower than market rates to estimate materials and repair costs, unfairly limited claims payouts on roof repairs and discouraged reopening closed claims. TWIA has denied all the allegations.

A consumer group said the settlements were good news for consumers but lamented that payments were coming so long after Hurricane Ike hit the Texas coast in September 2008.

More worrisome for consumers, however, would be a prolonged delay of depositions of key TWIA management, said Alex Winslow, head of Austin-based consumer group Texas Watch.

"I certainly believe TWIA management should be required to fully disclose and discuss in a public forum how they handled the claims following Hurricane Ike," said Winslow, who has previously called on state lawmakers to conduct an independent investigation of the insurer. "Any lengthy delay in that process should not be allowed to happen, and I hope Judge Criss ensures TWIA management is held fully accountable."

Oliver said plaintiffs' lawyers agreed to delay depositions so the insurer could spend time mediating more cases to get additional payments to policyholders as quickly as possible when appropriate.

Not all plaintiffs' attorneys like the postponement, though. Putting off depositions means pushing back trial dates.

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“I’m pretty disappointed about it, and I’m sure my client will be, too,” said Javier Delgado, a policyholder attorney who had a trial starting in April.

State Rep. Craig Eiland, D-Galveston, whose firm is working about 350 cases, said pushing depositions back a month should give the judge more time to determine whether TWIA must turn over certain internal documents if claims are privileged, he said.

“We don’t have those documents yet, and you don’t ever want to fly blind,” he said, noting that attorneys can be better prepared for depositions if they have all the documents requested first.

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