Adjusters International
The *right* way to settle claims®

CASE STUDY

Luxury Condominium Building Destroyed during Course of Construction

In June 2019, the construction of the Legend 56-unit luxury condominium development in Santa Clara, California came to an abrupt halt. A fire tore through the partially-constructed building in the early hours of the morning, destroying everything except for the parking area and the concrete slab foundation. With the project 60% complete, over $6 million already expended, and 4 units already sold, the fire was a disaster for the developer and its investors.

Issues:

- In the first week, the carrier sent a reservation of rights letter, indicating their right to deny the claim based on a protective safeguard endorsement that they believed had not been met.
- The extent of damage was greater than the initial assessment had revealed. Although the concrete slab was not destroyed, there was uncertainty as to its structural soundness—requiring additional construction costs.
- The cost to rebuild had escalated 15-20% since the beginning of the construction.
- Just as the claim was beginning to progress, COVID-19 lockdowns were implemented, further delaying negotiations.
- The developer was faced with accruing interest on loans, cancelled contracts for sales of four of the units, and its own ongoing overhead as the general contractor for the project.
- The carrier recommended salvage of the fittings, appliances, and fixtures that had been stored in the lower level of the building, despite extensive smoke exposure.

Resolutions:

- Adjusters International Pacific Northwest (AIPNW) argued that, because the cause of the fire was unknown and could not be demonstrably correlated with the plumbing work that had been done, the protective safeguard endorsement did not apply. Further, the policy included a waiver of subrogation, which prevented the insurance company from seeking damages against the plumbing subcontractor.
- AIPNW demonstrated that the slab had been structurally compromised and needed to be replaced. Although the hard costs coverage was exceeded by the rebuild plan, AIPNW's adjusters negotiated to reallocate engineering costs as soft costs. AIPNW's adjusters also successfully negotiated with the insurance carrier to cover the overhead costs and profit for the developer, additional advertising costs, and interest that had accrued on the developer's loans during the investigation.
- AIPNW successfully argued that these luxury units could not be sold as new if they were fitted with smoke-exposed materials and that the concrete wall panels were not intended to be painted. The carrier ultimately fully

Conclusion:

Not only did AIPNW demonstrate that the policy was fully enforceable and that the protective safeguard endorsement did not apply, but AIPNW's adjusters also ensured that the course of construction policy covered not just what had been expended financially, but the cost to rebuild as well. Using their deep experience and understanding of policy language and California insurance law, AIPNW's adjusters correctly reallocated professional costs to the category of soft costs, enabling the developer to receive full payment under the insurance policy. The carrier's initial offer was $450,000 for soft costs and $7.5 million for the building claim. AIPNW settled the claim for over $1.3 million in soft costs and $12.3 million for the building claim.