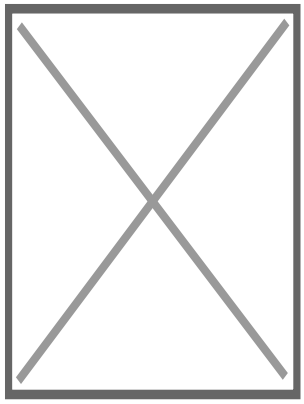
REPAIRING YOUR HOME OR BUSINESS AFTER A HURRICANE: KNOW BUILDING CODE REQUIREMENTS

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Whether you ride out the next hurricane or evacuate to a safer location, invariably one of the first things property owners will do after the storm is inspect their homes and business locations that were in the hurricane's path for damage. Prior to the storm, it is, of course, prudent to record “time-stamped” photos and videos of the interior and exterior of structures, as evidence of property condition prior to the storm; just as it is prudent to record ”time-stamped“ photos and videos of affected properties after the storm – particularly for potential insurance claims. All this said, apart from insurance-related claims, if property owners find damage or destruction to their homes and businesses, when and how does one conduct repairs lawfully? And this is where it is important to understand the responsibilities of properties to comply with local building code regulations.

First, in the aftermath of major hurricanes that destroy and severely damage the integrity of structures, or where there are life/safety issues related to, for example, compromised electrical circuits, fire alarms, etc., property owners should inspect their properties to make sure the structures are “habitable.” Local building codes do not allow “unsafe” structures to be occupied, and inspections by building officials may be required to determine whether a structure is, in fact, safe to occupy or use. To complicate matters, where whole communities are severely damaged, local building department resources will be stretched thin in order to make arrangements to inspect your property. Accordingly, one should plan ahead for such “doomsday” possibilities, including having designated roofing and other building-related contractors on-call if possible, and ensuring an alternative location to live or conduct business should your home or business location not be able to be occupied safely.

In more common scenarios, as was the case after Hurricane Irma in 2017, many South Floridians had home or business damage — some severe and some moderate or mild — but which required licensed contractors to perform work to repair including structural (roofs, walls, partitions), mechanical (air conditioning, gas lines), plumbing fixtures or pipes, and electrical systems. Property owners need to be aware that the Florida Building Code that applies to them locally may require, in instances of major damage to a particular structure’s “system”

(that, is structural or mechanical or plumbing or electrical), that the entire damaged system be brought up to current code requirements. Take for example an older home or business structure, which was built in compliance with code at the time of construction but whose electrical or plumbing or structural system would not currently meet code (for example, upgrading windows always come to mind). If the cost of repair to the affected system exceeds thresholds (typically 25% or 50% of the value of said system, depending on the locality) set forth by the applicable local building code, the building department could require the entire affected system be upgraded to current code. This is not only very costly, but very disruptive to being able to occupy and use the affected structure. Those property owners who do not comply with code may be subject to code enforcement monetary fines, which typically accrue daily until corrected.

In short, as one prepares for a hurricane's arrival by securing homes and businesses, and by memorializing property conditions both pre- and post-storm through photos and video for potential insurance claims, property owners who may experience damaged structures also need to be prepared to engage contractors and to navigate the regulations, inspection requirements, code enforcement, and availability of limited resources of their local building departments in order to minimize costs, delay and disruption to home life and business continuity.

If you have questions regarding your insurance coverage or other policy concerns, please contact Gina Clausen Lozier, a partner in our firm's Chambers rated Insurance Team. If you have questions about this code requirements, please contact the author, Jeff Bartel, on the firm's Government and Regulatory Team.

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