



OFFICE OF INSURANCE AND SAFETY FIRE COMMISSIONER

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10-EX-1

TO: ALL INSURERS AUTHORIZED TO SELL PROPERTY & CASUALTY
INSURANCE IN THE STATE OF GEORGIA

FROM: JOHN W. OXENDINE
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: APRIL 21, 2010

RE: DIMINUTION OF VALUE

In Directive 01-P&C-01, I advised that physical damage resulting from a covered event can reduce the value of a vehicle, and insurers should assess diminution of value along with the elements of physical damage when a policyholder makes a general claim of loss. *State Farm Mutual Automobile Insurance Company v. Mabry et al.*, 274 Ga. 498, 556 S.E.2.d 114 (2001).

Recently, I have been asked if this principle would apply to claims of diminution of value of commercial real property. Since this issue has not been addressed either by the legislature or the courts of this state, it is my opinion that, barring specific policy language to the contrary, a liable party must restore a property owner to the same position as the property owner was in prior to a loss. In some cases, even with repair of the property, it is possible that the property may be worth less after the loss than it was prior to the loss.

If an insurer fails to consider these factors, it may be subject to disciplinary action pursuant to the Department's authority under the Unfair Claims Settlement Practices Act, O.C.G.A. §33-6-30 *et seq.* Govern yourself accordingly.



JOHN W. OXENDINE
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STATE OF GEORGIA