

Faulty Workmanship Coverage Update

April 1, 2024

Faulty Workmanship – Washington

Gardens Condominium v. Farmers Ins. Exch.

No. 101892-4, --- P.3d ---, 2024 WL 1100749 (Wash. Mar. 14, 2024)

The Washington Supreme Court affirmed the Washington Court of Appeals ruling that coverage for repairs to the Gardens Condominium's (Gardens) roof components was available under the resulting loss exception to the insurance policy's faulty workmanship exclusion.

Gardens sought coverage from Farmers Insurance Exchange (Farmers) under an all-risk insurance policy for the cost of repairing damage to roof sheathing and framing caused by water vapor, condensation and humidity becoming trapped between the roof surface and ceiling because of defectively installed sleepers on top of the joists. Farmers denied Gardens' claim under the faulty workmanship exclusion, concluding that the faulty construction caused the loss due to a lack of ventilation in the roof assembly. Gardens then filed a declaratory judgment action, seeking a determination that coverage was available for its loss under the all-risk policy.

The parties filed competing dispositive motions in the trial court. Gardens took the position that it was not seeking coverage for the defective sleepers but only for the damage to the fireboard and sheathing. Gardens asserted that the damage to the fireboard and sheathing caused by condensation and water vapor is covered under the policy despite the faulty workmanship. Farmers argued that the resulting loss exception only applied if a covered event broke the causal chain between the excluded risk and the subsequent loss or if there is damage to other property. While the trial court granted Farmers' dispositive motion, the Washington Court of Appeals reversed, finding that the ensuing loss exception applied and coverage is afforded if not excluded by other policy provisions. The Washington Supreme Court affirmed the appellate court's decision.

In its opinion, the Washington Supreme Court noted that the ensuing loss exception is meant to preserve coverage for losses caused by covered perils when the initial loss is excluded by faulty workmanship. Because the policy language did not limit the resulting loss exception to independent perils or situations avoiding natural consequences of excluded events, the Supreme Court declined to adopt Farmers' reasoning because that would have required it to read additional language into the policy. The Supreme Court further noted that Farmers could have drafted the policy differently to ensure that the entire causal chain resulting from the faulty workmanship would be excluded by not including a resulting loss exception or by limiting the exception.

FAULTY WORKMANSHIP COVERAGE UPDATE Cont.

By: Amy L. Diviney