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New Jersey Appellate Division Issues Homeowner-Friendly Decision Expanding Damages A Displaced Homeowner May Recover

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In a precedential decision issued on June 17, 2019, the Appellate Division expanded the categories of damages that a homeowner may recover from a negligent party when the homeowner has been displaced from his or her home to allow for property damage to be repaired. In *Certain Underwriters at Lloyds Subscribing to Policy PLH-0013397 v. PSE&G*, several homeowners were displaced from their homes for ten months after a power line fell and caused significant fire damage to their homes. While the homeowners were reimbursed by their homeowner's insurance for the repair costs and incidental costs relating to their stays at motels during the period of displacement, they also sought damages against PSE&G for "inconvenience" and the loss of the use of their homes.

The trial court dismissed the homeowners' claims for additional compensation, but the Appellate Division reversed. The Appellate Division held that the homeowners were not precluded from seeking additional damages resulting from the loss of the use of their homes or other reasonable damages caused by the inconvenience, even if the homeowners could not precisely measure such losses. The court observed that one family was forced to move on multiple occasions, was confined to a motel during the Thanksgiving holiday, was without personal items of sentimental value, and endured the circumstances surrounding the premature birth of a child without the comfort of their own home. Another family was forced to eat most meals from fast-food chains because the motel had no kitchen facilities, had problems sleeping because of noise, and otherwise had their normal routine disrupted. The court remanded the matter for trial for a jury to decide if the homeowners should be further compensated based on these inconveniences.

While this matter did not involve claims against a developer for alleged construction defects, developers often make, or consider making, arrangements with homeowners to temporarily live elsewhere while they repair or correct the allegedly defective or deficient work performed by their design professionals or retained contractors. Developers should be aware that New Jersey homeowners can seek, and may ultimately be entitled to, a host of damages relating to their displacement, including circumstances that adversely impacted their quality of life. Developers should consider not only providing for suitable lodging and meals, but also other amenities that the homeowner might otherwise have enjoyed to reduce the risk of a lawsuit seeking loss of use or "inconvenience" damages or at least limit the damages that can be sought if a lawsuit is later filed.

If you have questions about this case or construction defects in New Jersey, contact Don Taylor at 732.855.6434 or Dan Kluska at 732.855.6033.

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