

# Building Owners May Be Overlooking Potential Wind Damage Insurance Recoveries

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The general impression that Sandy was mostly a “flood event,” coupled with the general lack of experience in the New Jersey area regarding how to identify and measure wind damage to a building, are two factors which have combined to cause many commercial insureds to overlook wind claims or to mishandle existing known claims. Popular images of Sandy were set in the public mind before the storm hit landfall, when it was downgraded to a tropical storm. The next morning, New Jersey awoke to a massive flood surge along the coast and inland waterways that caused major damage. General media coverage of Sandy was consistent with the notion that the winds were not as heavy as originally expected and that there was less rain than predicted. The idea that “it could have been worse” was prevalent. Then on November 2nd, the governor issued an Executive Order prohibiting the insurance industry from invoking “Hurricane deductibles” further solidifying these beliefs.

Despite these surface impressions, forensic evidence suggests that many parts of New Jersey were pounded with sustained hurricane force winds. Exact data of Sandy’s wind impact is only beginning to emerge. First, the gathering of accurate wind speed data is spottier science than most people think. The wind speeds reported by the National Hurricane Center and other agencies, at around the time of the storm, are largely generated by computer models that measure wind speeds before landfall. Local anemometers are also reported to the National Hurricane Center, but they may not accurately cover an area or are otherwise misleading. For example, believe it or not, local wind instrumentation is often run on local power sources. Of course, if the power goes out before the storm reaches its peak, the last data collected will be inaccurately low. Also, wind measurements often do not take into account building height, building location, the tunneling effects

of buildings in urban settings, and other key factors which impact a wind damage claim. Only now are wind engineering experts reconstructing accurate data of the wind forces that hit New Jersey.

Our team is working with experts to reconstruct area wind speed data in New Jersey. We have concluded that wind speeds in several regions of the state were well within hurricane force strength, particularly where the factors of building height and other considerations were taken into account. This does not mean that all of New Jersey, or even all of New Jersey’s coastal regions, suffered hurricane force winds. Nonetheless, our research has established that wind causation does exist to support significant wind damage claims in many areas of New Jersey that were affected by Sandy.

In New Jersey, many of even the most experienced property owners and managers do not fully understand the nature of forensic analysis and due diligence needed to properly prepare a wind damage claim. Because we (fortunately) lack great historical experience in the subject of wind damage, the popular notion prevails that wind damage is similar to what we see on television after a tornado hits a subdivision in Oklahoma reducing it to sticks. That is not how it works.

Working with experienced hurricane wind damage specialists, we have helped many property owners and manager clients focus on the latent, subtle and often unseen aspects of wind damage. Hurricane force winds can have a dramatic impact on a building that cannot be seen by the naked eye. As hurricane force winds move around the sides and roof of a building, tremendous suction forces are created which cause the building to flex and vibrate causing deterioration of the integrity of the building

structure. After the storm, a roof may look the same, perhaps with the exception of a few missing shingles, such that the owner thinks it can be easily repaired. What is not clear, however, is whether the impact of such winds has undermined the ability of the roof to exclude water from entering the building. This may only become apparent over time and through subsequent testing by experienced professionals. Similarly, windows and other openings in the building envelope can often be degraded by the intense suction effect of hours of hurricane force winds. In subsequent years, when water damage has ruined apartments and the internal structure of the building, it may be too late to file an insurance claim. Quite often, the useful life of portions of the building, such as roofing and window systems, are sufficiently lessened by the effects of hurricane force winds.

As we approach the anniversary of Sandy, it is important for building owners who think that their buildings were in hurricane force wind areas, to have the appropriate experts inspect the property to determine if there is basis for a wind claim. This is important not only for purposes of determining whether there is an opportunity for insurance recovery as a result of Sandy, but also because it helps to gather evidence of the building's condition in the event of a future storm. An accurate assessment of the building's current condition will help rebut later assertions by the insurance carrier that damage suffered was due to preexisting conditions if a future claim is made.

In conclusion, we have learned that the overall impression that Sandy was solely a "flood event" is not accurate in many parts of New Jersey that suffered significant hurricane force wind damage. Also, property owners in the area generally do not have the experience to fully appreciate how wind forces degrade a building in ways not obvious to the untrained eye and create potential insurance claims. Property owners who suspect wind damage in their area or to their buildings could well benefit from further analysis and inspection by well-trained professionals experienced with wind damage losses. ■

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photo courtesy of Edgardo Cardinali

### Housing Champion Award

Assemblyman Jason O'Donnell (D-Hudson) was presented with NJAA's *Housing Champion of the Year Award* on the Assembly Floor at the State House. This award is conferred to those who champion housing policies that support the viability and affordability of multi-family rental housing for the millions of residents in our communities throughout the Garden State.

Representing two large, urban municipalities where a significant portion of the households rent their homes, Assemblyman O'Donnell has worked to ensure that rental housing issues are never forgotten at the State House. Locally in the City of Bayonne, Assemblyman O'Donnell helped champion the establishment of permanent vacancy decontrol as an economic development initiative in Bayonne and helped defend this important economic development initiative against misguided efforts to overturn it at the ballot box.