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October 25, 2023

The Honorable Jarrett Keohokalole
Chair, Senate Committee on Commerce & Consumer Protection
State Capitol, Room 205
Honolulu, Hawaii 96813
senkeohokalole@capitol.hawaii.gov

Re: Follow-Up Responses to the September 28, 2023 Committee on Commerce and Consumer Protection (CPN) Informational Briefing in Lahaina, Maui

Dear Chair Keohokalole:

Thank you for letting us participate in the CPN Informational briefing in Lahaina on Thursday, September 28th, 2023. Please find our responses below to the follow-up questions that were submitted to the Department of Commerce and Consumer Affairs (Department) on October 6th, 2023.

Insurance Policy

1. Adjusters. Please provide an update, based on the best available data, as to how many insurance claims in the burn zone remain unresolved because of a lack of adjuster access. What is the plan to facilitate access for adjusters to reach properties in the burn zone?

We believe a significant amount of claims are being timely processed or have been closed. To date we have received only a few complaints about claims pending due to not being able to access the property. Everyone is encouraged to contact the Insurance Division's office if their claims are being pended, so we know which properties are being impacted. If legislators have received calls from constituents,

we would appreciate if they could encourage them to call the Insurance Division office or forward any information to enable us to reach out to those people whose claims have been delayed.

The Insurance Division has worked with the Maui Emergency Management Agency (MEMA) to get access to the disaster areas. MEMA has created a separate process for insurance personnel and adjusters to access the disaster areas. The Insurance Division has sent the following message to the industry on October 13th.

“The Maui County and the Maui Emergency Management Agency (MEMA) has created a separate process to allow insurance companies and adjusters access into the devastated areas for the purpose of supporting insurance claims processing.

Please see below the email link and the Lahaina Command phone number.

Lahaina.Re-entry@mauicounty.gov

Lahaina Command: 808-270-4360

Insurance companies and adjusters seeking to enter the devastated area to conduct a property inspection for the purpose of claim adjustment, please send an email with your request. The Lahaina Command will contact you and schedule a time to inspect a property.

It will be required to show proof the insurance company personnel or an adjuster is going to inspect a specific property or properties that are insured by the insurance company. Documented proof such a declaration sheet or other insurance document(s) with the insured/policyholder's name, property address and policy number shall be provided. The consent or acknowledgment of inspection by the insured/policyholder is also encouraged. If the insured/policyholder would like to accompany the insurance company personnel or adjuster for the inspection, that request should be indicated as well as the person's name.

Additionally, use of a drone for insurance adjustment purposes may be permitted with permission from the MEMA.

If you have questions, call the Lahaina Command.”

2. Testifiers mentioned a lack of resolution of insurance claims due to adjusters not having access to the burn zone. As a result, the delay may be affecting access to time-limited FEMA support programs for fire survivors. What information do you have, and what data have you requested, to validate that claim? What is being done to address this issue?

The Insurance Division does not have specific data but have received very few inquiries or complaints. As noted above, access to the disaster zones are being opened to the insurance personnel through the process established by MEMA.

The Insurance Division will be in contact with insurers and adjusters to ensure they are able to get into the areas to review the extent of damage to a property.

3. Policy Rates. What is the DCCA doing to proactively address potential insurance rate increases? How will insurance rate issues be managed in a way that prevents flight of insurance carriers from the Hawaii market while also ensuring that policy premiums remain cost accessible to the overall community?

The Insurance Division reviews all property & casualty rate filings. There will be rate increases in almost all lines of insurance, particularly in the Property & Casualty lines. The increases will be due to increases in the frequency & severity of losses, large increases in reinsurance rates, inflation, etc. The Insurance Division will ensure that for lines we have rate authority on, requests will be approved within the statutory mandate and that rates are not excessive, inadequate or unfairly discriminatory.

4. What remedies are available for policyholders who dispute the claims payouts they are receiving from insurers related to the fire?

A policyholder that disagree with the claim's payout can file a complaint with the Insurance Division. We will investigate if see if policyholders are being treated fairly. If not, we will take appropriate action.

5. How will the DCCA advocate that the cost of supplies and for construction to remain affordable?

The Insurance Division will work with the Division of Consumer Protection to ensure there is no price gouging occurring. We are working with other governmental agencies as well as private entities to make additional materials and resource available to have adequate constructions materials and supplies available will help keep prices lower.

6. Are there any potential legislative remedies that need to be pursued to ensure a fair resolution to insurance issues caused by the wildfires? Is legislative action necessary to ensure a stable and accessible insurance market going forward?

These are good questions which we would like to have further discussions. The Insurance Division is preparing to do an educational briefing on the current state of Hawaii's insurance market, what is happening nationally and globally and its impacts on Hawaii. What the future may hold in the short term and longer terms due to the insurance market conditions, global warming, and the wildfires that have occurred. We would appreciate the opportunity to make a presentation to the Legislature in the near future.

Accessibility and Information

1. Several testifiers commented on the difficulty that segments of the Lahaina community may have with language access in applying for and receiving support. What is the Department's plan to ensure that forms and resources are simplified, translated, and broadly disseminated?

The Department will work on translating relevant and applicable documents in various languages. To our knowledge, limited English proficient (LEP) persons requesting translation services from FEMA at the Disaster Recovery Center (DRC) have been scheduling a date and time to bring in a translator to work with them one-on-one at the DRC.

2. What can the DCCA do to help prevent predators and disaster capitalists from preying on and intimidating survivors in the claims space? What can be done to prevent misinformation and fraud regarding insurance?

The Department is aware of the concern for predatory practices by public adjusters. It is important to strike a balance when considering public adjusters. While there are cases where they can be valuable for complex claims, there's a potential downside due to high fees. The Department feels that it is a good idea to inform people that they can reach out to the Insurance Division if they have questions or concerns about their insurance claims. The Insurance Division is also doing research on what other states have issued in terms of guidelines or recommendations so that we can help provide appropriate guidance to the public.

3. Can the DCCA provide an approved list of vetted contractors (architects, landscapers, etc.), adjusters, and cleaners to the public?

The DCCA's Professional and Vocational Licensing (PVL) division may provide a list of all current licensed contractors, engineers, architects, and landscapers. However, we are not able to endorse or recommend a particular licensee.

If a consumer would like to receive a recommendation for a contractor, engineer, architect, etc., they may contact the appropriate industry association. We also recommend that consumer perform license check for past disciplinary history at: <https://web2.dcca.hawaii.gov/RICO> and the Office of Administrative Hearings website for past disciplinary decisions at <https://web3.dcca.hawaii.gov/oah/public/search>.

Contractor-related Associations

General Contractors Association of Hawaii

Member Directory: <https://business.gcahawaii.org/list>

To learn about the Association: <https://www.gcahawaii.org/>

Contact: <https://www.gcahawaii.org/about-us/#>

Building Industry Association of Hawaii

Member Directory: <https://www.biahawaii.org/about-us>

To learn about the Association: <https://www.biahawaii.org/history>

Contact: <https://www.biahawaii.org/contact/>

Subcontractors Association of Hawaii

1188 Bishop Street, STE 1003

Honolulu, HI 96813-2938

Phone: (808) 537-5619

Fax: (808) 533-2739

Hawaii Island Contractors' Association

Member Directory: http://hicassociation.com/?post_type=lsvr_listing

Learn About the Association: https://hicassociation.com/?page_id=1172

Contact: https://hicassociation.com/?page_id=1023

Contractors Association of Kauai

4231 Ahukini Road

Lihue, HI 96766

(808) 246-2662

Contact: <https://contractorsassnofkauai.multiscreensite.com/contact>

Construction Industry of Maui

Member Directory: <https://cimmaui.com/members/>

Learn About the Association: <https://cimmaui.com/faqs/>

Contact: <https://cimmaui.com/contact/>

Engineer, Architect, Surveyor, and Landscape Architect-related Associations

Architects:

- American Institute of Architects: Honolulu: <https://www.aiahonolulu.org/> | Maui: <https://www.aia.org/maui>

Engineers:

- Hawaii Council Of engineering Societies (HCES) <https://www.hceshawaii.org/> (Umbrella organization for 18 major engineering societies in the State, including the following):
 - American Council of Engineering Companies of Hawaii (ACECH) <https://acechawaii.org/>
 - American Society of Civil Engineers (ASCE) <http://www.ascehawaii.org/>
 - Structural Engineers Association of Hawaii (SEAOH) <https://www.seaoh.org/>
- Illuminating Engineering Society (IES) <https://honolulu.ies.org/>

Surveyors:

- Hawaii Land Surveyors Association (HLSA) : <https://hlsahawaii.org/>

Landscape Architects:

- American Society of Landscape Architects (ASLA): <https://www.hawaiiasla.org/>

Vessels

1. Our understanding is that the United States Coast Guard is conducting cleanup and salvage of vessels in the nearshore burn zone. Will the Coast Guard pursue salvage reimbursement from the insurance claims of boat owners? If a vessel owner does not have insurance, will they be responsible for the Coast Guard salvage of their vessel? What are the conditions of that process, since owners and insurers do not appear able to approve, observe, or price the work being done?

2. Have you received, or will you pursue, written protocols and guidelines from the Coast Guard regarding the cleanup and salvaging of the harbor and vessels as it relates to the rights, expectations, and obligations of vessel owners? How do you plan to make that information available to the West Maui boating community?

In response to questions one and two, the Insurance Division participated in calls with the Coast Guard. This is the information they have learned:

FEMA is the primary funding agency for the Coast Guard's mission in Lahaina. The Coast Guard was given a mission assignment by FEMA to conduct work that supports the Emergency Support Function 10 (ESF-10). Their scope of work includes the recovery of all Fire derived damages for vessels, debris, & pollution in and around Lahaina harbor. Their mission timeframe is mid-August through December 5th.

Once the Coast Guard received the mission assignment, they hired Global Diving and Salvage as their prime contractor. Global then hired local Hawaii workers and their machinery/equipment as subcontractors.

The Coast Guard is responsible for the overall job, supervision of costs and contract completion. The Coast Guard does not work with insurance agencies to recovery costs, rather, they get paid through the mission assignment by FEMA.

The Coast Guard stated the cost sharing of the state and FEMA and cost recovery all happens in the background. The potential recoupment of costs by FEMA to vessel owners/insurance happens in the background to the Coast Guard's mission.

The Insurance Division had another stakeholder meeting scheduled for October 19th that will have a FEMA representative on the call. We are hoping to get response that will provide guidance to vessel owners and insurers regarding FEMA's potential reimbursement process.

Thank you for allowing me the opportunity to express the Department's positions on these questions. Please contact me at (808) 586-2850 if you have any questions.

Sincerely,



NADINE Y. ANDO

Director of Commerce and Consumer Affairs