October 1, 2014

RE: Claim number:

Loss location:

Policy number:

Date of loss:

Dear Insured:

The purpose of this letter is to advise you that MPIUA’s investigation has been completed and to further advise you that after an evaluation of the information gathered during the investigation in relation to the applicable provisions of your policy, MPIUA must respectfully decline to honor your claim. In support of MPIUA’s above stated denial of coverage, please be aware of the following.

During our inspection of the captioned property with a tenant of the building, we were informed that there had been water leakage from the roof of the 1 story addition at the right rear of the building, causing water damage to the ceilings, walls and floors of the room below. We saw no evidence of storm damage to the roof. It seems likely that the water has entered the flat roof due to normal wear and age.

We were also shown damage to a bath ceiling due to water leakage from the roof. You informed us in a telephone conversation that you believed that rain was leaking in around a chimney where it met the roof.

A review of the CP-00 99 policy form that provides coverage for your building has determined that the policy is written on what is known as a specified perils basis, in that the policy lists specific types of damage for which coverage is provided. While there is a listed peril for windstorm or hail, it requires that there be damage to the exterior of the dwelling from the windstorm or hail before any coverage can be provided for damages to the interior of the dwelling.

We would refer you to page 3 of 17 of the CP-00 99 policy form entitled Covered Causes of Loss, from which we quote in part.

**“d.** Windstorm or Hail, but not including:

**(1)** Frost or cold weather;

**(2)** Ice (other than hail), snow or sleet, whether driven by wind or not; or

**(3)** Loss or damage to the interior of any building or structure, or the property inside the building or structure, caused by rain, snow, sand or dust, whether driven by wind or not, unless the building or structure first sustains wind or hail damage to its roof or walls through which the rain, snow, sand or dust enters;”

Additionally, we were informed on the loss notice that there was a problem with the rear deck.

Our inspection of the deck found that there were holes in the decking due to rot, the deck is pulling away from the rear wall of the building, and the framework is separating in several areas. The deck is in poor condition due to age and exposure to the elements.

Review of the CP 00 99 policy form finds no specified peril that would provide coverage for this situation.

We would refer you to page 9 of 17 of the CP 00 99 policy form entitled Exclusions, from which we quote in part:

“B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance or Law

The enforcement of any ordinance or law:

(1) Regulating the construction, use or repair of any property; or

(2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance or Law, applies whether the loss results from:

(1) An ordinance or law that is enforced even if the property has not been damaged; or

(2) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

b. Earth Movement

(1) Earthquake, including any earth sinking, rising or shifting related to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking (other than sinkhole collapse, if sinkhole collapse is a Covered Cause of Loss), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in b.(1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

g. Water

(1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;

(2) Mudslide or mudflow;

(3) Water that backs up or overflows from a sewer, drain or sump; or

(4) Water under the ground surface pressing on, or flowing or seeping through:

(a) Foundations, walls, floors or paved surfaces;

(b) Basements, whether paved or not; or

(c) Doors, windows or other openings.

But if Water, as described in g.(1) through (4) above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

h. "Fungus," Wet Rot, Dry Rot and Bacteria

Presence, growth, proliferation, spread or any activity of "fungus," wet or dry rot or bacteria.

But if "fungus," wet or dry rot or bacteria results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion does not apply:

(1) When "fungus," wet or dry rot or bacteria results from fire or lightning; or

(2) To the extent that coverage is provided in the Additional Coverage – Limited Coverage for "Fungus," Wet Rot, Dry Rot and Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.”

We regret, therefore, that we cannot be of service to you relative to this matter.

Please also be further advised that the applicable policy and statutory provisions state that no suit or action can be brought against this insurer for the recovery of any claim by virtue of this policy unless the policy provisions have been complied with and the action is started within two (2) years after your date of loss (see policy provision “suits against us” and M. G. L. c. 175 sec. 99 sec. Twelfth).

MPIUA continues to maintain its full reservation of rights regarding any rights, privileges and/or defenses available to it by law and the contract of insurance.

This correspondence or any other action that is taken by MPIUA through its employees, agents and/or designees is not and should not be considered as a waiver of those rights, privileges and/or defenses.

Sincerely,

Claims Adjuster