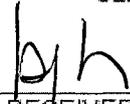


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SUPREME COURT OF THE  
STATE OF WASHINGTON  
Case No. 90651-3

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QUEEN ANNE PARK HOMEOWNERS ASSOCIATION, a  
Washington non-profit corporation,

Appellant,

v.

STATE FARM FIRE AND CASUALTY COMPANY, a  
foreign insurance company

Appellee.

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STATE FARM'S ANSWER TO AMENDED  
BRIEF OF AMICUS AMERICAN  
INSURANCE ASSOCIATION

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Submitted by:

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ORIGINAL

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State Farm briefly answers the Amended Brief of Amicus American Insurance Association (AIA) filed in this matter.

## I. ARGUMENT

### A. ISSUE ONE: AIA's brief is helpful in addressing the analysis required to answer the certified question.

The certified question asks this Court to determine what the word “collapse” means in a policy that insures “accidental direct physical loss involving collapse.” AIA’s brief assists this Court by directing the Court’s attention to an interpretation of the policy language—including the common, ordinary definition of the word “collapse” as applied to physical objects—before it.

That is, AIA’s brief is helpful in pointing out that the phrase “substantial impairment of structural integrity” is *not* a definition of the word “collapse” but is a legal term of art used by some courts to describe a standard for collapse coverage when a building has not fallen to “rubble on the ground.” AIA Brief at 3, 8. Further, AIA points out that courts’ use of the term “substantial impairment of

structural integrity” arises in highly variable situations but situations that almost uniformly involve some actual deformation or change in shape of the building claimed to have collapsed. *Id.* at 8-15.

The arguments presented by AIA help focus on the task at hand: What does the word “collapse” mean in a policy covering “accidental physical loss involving collapse”? That is, what is the common, ordinary meaning an average purchaser of insurance would give to the word “collapse” in that context? The term “substantial impairment of structural integrity” is neither a definition of “collapse” nor a substitute for its use in the policy. Tallying the cases that have used the term “substantial impairment of structural integrity” does not lead to enlightenment and is not destined to help this Court formulate a reasoned answer to the certified question.<sup>1</sup>

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<sup>1</sup> State Farm believes, however, that it would win a counting contest, if properly conducted. See Brief of Appellee at 28-29.

**B. ISSUE TWO: The State Farm policy, which does not include the term “risks of loss,” does not provide collapse coverage broader than a policy including that term.**

Because some policies offering collapse coverage, unlike the State Farm policy at issue here, insure “risks of loss” involving collapse, AIA argues that the coverage afforded by such policies is no broader than that afforded by policies (such as State Farm’s) that do not use that language. Specifically, AIA argues that “risks” in the phrase “risks of loss” refers to the hazards insured and does not mean “threat of loss.” AIA Brief at 16-20.

State Farm does not take a position regarding AIA’s argument. Nevertheless, State Farm emphasizes that its collapse coverage cannot be *broader* than that provided by a policy containing the extra verbiage.

As AIA discusses, the seminal case of *Doheny W. Homeowners’ Ass’n v. Am. Guar. & Liab. Ins. Co.*, 60 Cal. App. 4<sup>th</sup> 400, 70 Cal. Rptr. 2d 260 (1997) decided that the coverage afforded by a policy insuring “risks of loss involving collapse” is broader than it would be if it insured “loss involving collapse,” without the word “risks,” and

extended to an imminent risk of collapse.<sup>2</sup> If this Court were to accept the rationale of *Doheny West* (and *Wall & Associates*) that the language “risks of” loss involving collapse provides broader coverage than a policy that does not include that language, then State Farm’s policy provides narrower coverage than that held to apply in *Doheny West*, *Wall*, and other cases following their rationale.

## II. CONCLUSION

AIA’s brief helps focus this Court’s analysis on the actual policy language, including the undefined word “collapse,” and the context in which the collapse coverage is afforded. State Farm does not take a position regarding the effect of language not contained in its policy.

---

<sup>2</sup> See discussion of the *Doheny West* in AIA’s brief at 16-18. See also *Assur. Co. of Am. v. Wall & Assocs., LLC*, 379 F.3d 557, 557 (9<sup>th</sup> Cir. 2004) discussed in Brief of Appellee at 19-20, in which the court decided that the additional language “risks of loss” provided greater broader coverage than for collapse alone. Thus, coverage extended to an imminent risk of collapse.

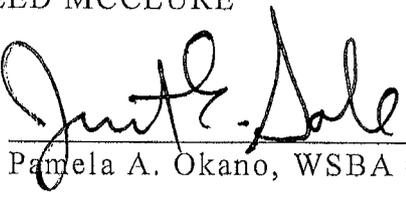
DATED this 29<sup>th</sup> day of December, 2014.

BULLIVANT HOUSER BAILEY PC

By   
Jerret E. Sale, WSBA #14101

Attorneys for State Farm Fire and  
Casualty Company

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 Pamela A. Okano, WSBA #7718

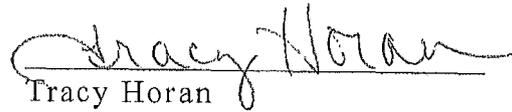
Attorneys for State Farm Fire and  
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The undersigned certifies that on this 29<sup>th</sup> day of  
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I declare under penalty of perjury under the laws of  
the state of Washington this 29<sup>th</sup> day of December, 2014, at  
Seattle, Washington.

  
Tracy Horan

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**Subject:** RE: Case No. 90651-3, Queen Anne Park HOA v. State Farm Fire and Casualty Company

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**Subject:** Case No. 90651-3, Queen Anne Park HOA v. State Farm Fire and Casualty Company

Attached for filing are the following documents:

State Farm's Answer to Amended Brief of Amicus American Insurance Association  
State Farm's Answer to Amicus Brief of Community Association Partners, et al.

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