



# From Builder's Risk to Builder's Opportunity

*Reframing construction insurance claims as a tool for value preservation and project stability*

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Builder's risk insurance is something property owners and contractors hope they never need to rely on, but when losses occur, it can mean the difference between a project reaching successful completion and one abandoned in dispute. When losses occur, the coverage is frequently viewed as a blunt instrument: slow to respond, constrained by policy language, and prone to disputes over scope, timing and quantum. Yet, when approached strategically, builder's risk policies can serve as a powerful opportunity to preserve project value, manage disruption and stabilize financial outcomes during periods of uncertainty.

Construction losses rarely occur in isolation. Physical damage is often accompanied by schedule disruption, productivity impacts, acceleration costs and knock-on financial consequences that extend well beyond the immediate repair scope. Builder's risk policies are designed to respond to these realities, but appropriate recovery is rarely easy to establish.

Your path from loss to recovery depends on how effectively the project story is documented, analyzed and aligned with your policy requirements.

## **ESTABLISHING RECOVERY THROUGH PROJECT REALITY**

One of the most common challenges in builder's risk claims is the gap between how projects actually perform and how losses are evaluated in the insurance adjustment process. Schedule impacts are often reduced to high-level assumptions or insurer-driven narratives that overlook the complexity of construction sequencing, resource constraints and critical path dynamics.

A disciplined forensic delay and scheduling analysis can shift this dynamic. By grounding analyses in contemporaneous project data like baseline schedules, schedule updates, progress records, and recovery measures, it becomes possible to clearly establish the period of delay attributable to an insured event. This not only strengthens the claim but also reframes discussions around cause, duration and responsibility in objective, defensible terms.

Equally important is the evaluation of “Actual Loss Sustained.” Many policies tie recovery to operational periods that do not assume stabilization or steady-state performance, even though the policy’s premiums were derived from budgets based on stabilized net income periods, and early ramp-up phases are inherently volatile. Without careful analysis, this can artificially limit recovery as policyholders can incur two ramp-up periods: 1) the one that actually occurs, and 2) the period associated with recovery through the insurance process. A rigorous assessment that reflects how the project would have progressed but for the loss aligns with the Actual Loss Sustained language, rather than how it appears in hindsight or an interpretation that conflicts with the spirit of the policy and can materially affect outcomes.

Consider an residential apartment complex under construction that experienced significant water damage from a burst temporary supply line only weeks before scheduled commissioning. The repair work delayed completion by approximately four months. The insurer’s scheduling consultants took an alternative view and position that the project was already delayed, and the repair work was not on the critical path because of window treatments that were delayed several months.

The Insured’s delay claim calculated business interruption recovery based on stabilized operating income projections developed during underwriting. However, the Insurer initially applied a narrow interpretation, arguing that the facility, during the first four months, would not have reached its anticipated full lease-up projections and, therefore, could not demonstrate the expected revenue levels. Further, the insurer raised the concern that the financial projections were developed pre-Covid and the opening of the asset was post-Covid, which had impacted the rental housing market.

A detailed financial and operational analysis told a different story. Construction schedules, commissioning plans and pre-existing logistics contracts showed that the complex was delayed due to the repair work from the water damage and window treatments would not have delayed the opening of the asset. Further, analysis of the lease-up schedule demonstrated the property’s true economic loss was the delay period of stabilized net income and not the period during ramp-up.

Most commercial assets will experience a ramp-up upon commencement of operations. If the insurance policy, through a delay claim, only compensates the Insured for the period during ramp-up when net income is minimal or the asset is operating at a loss, the Insured will experience essentially two ramp-ups:

1. the actual ramp-up as it occurs, and
2. through reimbursement of the business interruption claim.

The economic dynamics and actual loss sustained suggest the insured should only have to incur one period of ramping up their leases. The insured’s forensic accountant demonstrated this economic reality with charts and graphs of the asset’s expected performance over the life of the property.

The insurer ultimately reversed their position and accepted the insured's delay period. The result was recognition that the Actual Loss Sustained included the revenue disruption associated with the project's intended operational trajectory during a stabilized period, not simply the limited performance levels observed immediately after commencing operations.

### **UNLOCKING VALUE IN POLICY LANGUAGE**

Builder's risk policies are complex documents, often negotiated long before a loss occurs and revisited only when something goes wrong. Sub-limits, endorsements and mitigation provisions are frequently misunderstood or underutilized, despite offering meaningful opportunities to support recovery efforts.

For example, expediting and mitigation costs are intended to reduce overall loss exposure, yet disagreements often arise over what qualifies, how costs should be measured and whether they fall within separate sub-limits. A comprehensive policy review, paired with a clear articulation of how mitigation actions reduced delay or avoided greater loss, can transform these provisions from points of contention into tools for value preservation.

Consider a large mixed-use development where a windstorm damaged partially installed façade systems on several upper floors. Without intervention, replacement procurement lead times would have delayed project completion by nearly five months.

To mitigate the impact, the contractor secured expedited manufacturing slots with an alternative supplier and implemented overtime installation shifts once replacement panels arrived. These actions increased direct construction costs but reduced the expected schedule delay to less than two months.

During the adjustment process, questions arose as to whether these costs qualified as expediting expenses under the policy or should be treated simply as construction cost overruns. A clear technical analysis demonstrated that the additional expenditures were undertaken specifically to reduce the period of delay and avoid larger business interruption exposure.

Unfortunately, the policy included a sublimit on expediting costs, so a portion of the incremental mitigation expenses was not covered. While the contractor did attempt to mitigate the delay in good faith, they were still left with a dispute with the owner on costs that were not covered by insurance. The insured pleaded that the mitigation measures shortened the overall loss period and reduced the insurer's potential liability. While the insurer did not disagree in concept, they pointed to the insurance contract and what was afforded. The costs were not covered.

Best practice would be to present the mitigation options to the insurance adjustment team before the costs are incurred and gain agreement that the costs are covered to mitigate the business interruption loss, regardless of any sublimit, and align the interests of both the Insured and the Insurer.

Similarly, policy limits based on concepts such as “stabilized net income” introduce subjectivity into the adjustment process. Without a clear, project-specific interpretation, these terms are often applied narrowly. Analytical rigor and financial clarity are essential to ensure that policy intent is reflected in recovery, rather than constrained by default assumptions. Often, seeking legal advice regarding such issues is of paramount importance.

## **NAVIGATING STRUCTURAL IMBALANCES**

Despite being primary financial beneficiaries under builder’s risk coverage, contractors often have limited control over the claims process if the policy is procured through the owner/developer. Adjustments may be driven by insurers or third-party consultants who lack deep familiarity with the project’s technical and commercial realities. This imbalance can allow simplified narratives to take hold, particularly when policyholders lack specialized delay, quantum or forensic accounting support.

Integrated expertise that combines construction, scheduling and claims expertise helps rebalance the equation. When technical impacts, cost consequences and mitigation measures are evaluated together, the claim becomes more than a collection of line items; it becomes a coherent account of what happened, why it mattered, and how the policy responds.

Well-supported claims reduce friction and tend to progress more efficiently, narrowing areas of disagreement and reducing the likelihood of protracted disputes among owners, contractors and insurers.

In practice, the difference between a stalled claim and a steady recovery often comes down to how early structure and discipline are imposed on the process. Consider a large, urban, multi-family project that suffered a significant fire loss mid-construction. While physical damage was evident, the broader challenges emerged over time: reconstruction delays driven by litigation with tenants, incomplete as-built documentation and the need to recreate design intent to match previously completed work.

Rather than treating the claim as a single, static submission, recovery was supported through a series of interim evaluations tied to actual reconstruction progress. Schedule impacts, evolving costs and mitigation efforts were documented contemporaneously and communicated proactively with the adjustment team. This approach helped maintain payment continuity over a multi-year reconstruction period, avoided common bottlenecks associated with burdensome RFIs and re-submissions and reduced the risk of disputes that often arise when claims are deferred or overly aggregated.

The result was not simply recovery of insured losses, but a more predictable path through a highly disruptive event.

## **TURNING DISRUPTION INTO STRATEGIC ADVANTAGE**

Builder’s risk claims are often viewed as a necessary evil. They arise at moments when projects are already under intense strain, teams are stretched and financial exposure is increasing. But these same

moments present an opportunity to impose structure by aligning stakeholders around facts and making informed decisions about recovery strategies.

Projects that approach builder's risk proactively by documenting impacts as they develop, evaluating mitigation options in real time, and grounding recovery in objective analysis are better positioned to protect both schedule and value. Rather than reacting defensively, they use the claims process as a mechanism to restore momentum and financial clarity.

In this sense, builder's risk is not merely about transferring loss. It is about understanding it, managing it and, where possible, turning uncertainty into a controlled outcome. What matters most is not avoiding loss but being ready to respond when it happens.

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