

STATE OF ARIZONA  
FILED

JAN 14 2015

STATE OF ARIZONA

DEPARTMENT OF INSURANCE DEPT OF INSURANCE  
BY MS

In the Matter of an Objection by:

**WEEDE, ROBERT AND VIVIAN,**

**No. 14A-139-INS**

Petitioners,

**ORDER**

of a Notice of Non-Renewal by

**STATE FARM FIRE & CASUALTY  
COMPANY,**

Real Party in Interest.

On December 18, 2014, Robert and Vivian Weede ("Petitioners") filed an objection with the Arizona Department of Insurance ("Department") pursuant to Arizona Revised Statutes ("A.R.S.") §§ 20-1633(A) and 20-1652(B) to appeal the non-renewal of their homeowner's insurance policy by State Farm Fire & Casualty Company ("State Farm").

On January 7, 2015, the Director of the Department of Insurance ("Director") ordered an examination of the objection. On January 12, 2015, the Department, through examiner Chris Hobart, issued an Examiner Recommendation ("Recommendation") received by the Director on January 13, 2015. The Recommendation is attached and incorporated by this reference.

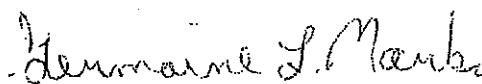
The Director has reviewed the Recommendation and enters the following Order:

1. The Director approves State Farm's action.
2. State Farm shall pay the costs of the examination pursuant to A.R.S. § 20-1633(C).

1 **NOTIFICATION OF RIGHTS**

2 Either party may appeal the determination of the Director to the Superior Court of  
3 Maricopa County for judicial review pursuant to A.R.S. § 20-1633(C) and Title 12, Chapter  
4 7, Article 6. A party filing an appeal must notify the Arizona Department of Insurance:  
5 Consumer Affairs Division of the appeal within ten (10) days after filing the complaint  
6 commencing the appeal. A.R.S. § 12-904(B).

7 DATED this 13<sup>th</sup> day of January, 2015.

9   
10 GERMAINE L. MARKS, Director  
11 Arizona Department of Insurance

12 COPY of the foregoing mailed/delivered  
13 this 14<sup>th</sup> day of January, 2015, to:

14 Tom Weede  
15 Law Office of Tom Weede  
16 11402 N. Ingot Loop  
17 Oro Valley, Arizona 85737  
18 Attorney for Petitioners

19 Arianna Serrano  
20 State Farm Fire and Casualty Company  
21 Tempe Operations Center  
22 2700 South Sunland Dr.  
23 Tempe, Arizona 85282-3387  
24 Real Party in Interest

25 Darren Ellingson, Deputy Director  
26 Mary E. Kosinski, Exec. Asst. for Regulatory Affairs  
Yvonne Hunter, Assistant Director, Consumer Affairs Division  
Catherine M. O'Neil, Consumer Affairs Legal Officer  
Arizona Department of Insurance  
2910 N. 44<sup>th</sup> Street, Suite 210  
Phoenix, Arizona 85018

25   
26 Maidene Scheiner

## EXAMINER RECOMMENDATION

**TO:** Germaine L. Marks, Director

**FROM:** Chris Hobert, Market Conduct Senior Examiner

**RE:** Matter of Robert & Vivian Weede and State Farm Fire & Casualty Company (Homeowner Non Renewal)

**DATE:** January 12, 2015

State Farm Fire & Casualty Company ("Company" or "State Farm") as well as Attorney Tom Weede ("Attorney") provided the Examiner on January 9, 2015 with additional information to support each of their positions regarding the upcoming February 1, 2015 non renewal of Robert & Vivian Weede's homeowner policy [REDACTED].

### Overview:

Robert & Vivian Weede have been insured with State Farm since February 1, 2012. They have had two (2) water damage claims (10/12/14 and 11/17/14), during their time with the Company, which have been repaired. On December 10, 2014 the Company sent the Weede's a non renewal notice due to "Claim Activity". On December 16, 2014 the Attorney sent the Company a letter disagreeing with the Company position citing A.R.S. §§ 20-1652(A)(B), 20-1653 as well as Circular Letter 90-1A. On December 24, 2014 the Company responded to the Attorney's disagreement letter and reiterated their position to maintain the non renewal. They also indicated the following "The decision to not renew the policy was made in accordance with our policy contract. From the Homeowners Policy (FP-7955) Section 1 and Section II – Conditions (pages 19-20), 6 Nonrenewal, applies in this case."

### Issues:

First, the Attorney does not believe the non renewal notice sent to his clients on December 10, 2014 was in compliance with Title 20 of the Arizona Revised Statutes and Circular 90-1A. He mentions "claim activity" cannot be used as a reason to non renew coverage and is not one of the reasons for which the insurer can legally cancel or non renew based on A.R.S. § 20-1652. Further, the Attorney believes this to be a case of "condition of premises" where the policyholder could remedy the issue and he also mentions it not being a "substantial change in risk", since "the pipe system is the same pipe system in place at the time the policy was entered into".

**Examiner Review**

Contrary to the Attorney's statement the Company does provide the policyholders more specific facts on their non renewal notice of December 10, 2014. The following were included on the non renewal notice: date of loss, cause of loss and the amount paid under each of the two (2) claims. Also, mentioned was statute A.R.S. § 20-1652 grounds for valid notice of cancellation. This would not be applicable for this is a non renewal and not a cancellation.

The issues of "condition of premises" or "substantial change in risk" do not appear to have been a factor in the Company's decision to non renew this policy.

It appears the Company made their decision to non renew the policy based on frequency of claims during the policy tenure.

**Recommendation**

The Examiner believes the Company met its obligation under the statute and their HO Policy contract by mailing a written notice over 30 days in advance to the named insured at the address shown in the policy and by providing the specific facts, which constituted the reason the policy was not being renewed.

The Company position should be upheld and the policy should be non renewed effective February 1, 2015.

The Examiner carefully reviewed all information provided by all parties involved while putting together this recommendation.

**SUMMARY**

This concludes the Examiner's recommendation on the matter of Robert & Vivian Weede and their Attorney Tom Weede against State Farm Fire & Casualty Company. If I can be of any further assistance in finalizing this matter, please let me know. Thank you, Chris Hobert, CIE, MCM

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