



November 30, 2004

Rules Docket Clerk
Office of the General Counsel
Federal Emergency Management Agency
500 C Street, S.W., Room 840
Washington, DC 20472

To Whom It May Concern:

On behalf of the over one million members of the National Association of Realtors® (NAR), I appreciate the opportunity to comment on the Federal Emergency Management Agency's (FEMA) Pilot Program for the Mitigation of Severe Repetitive Loss Properties. Section 1361A of the National Flood Insurance Act of 1968, as amended by section 102 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (Pub. L. 108-264, 42 U.S.C. 4102a), authorizes FEMA to develop this Pilot program.

NAR has an interest in this Pilot Program because of our members' support of, and reliance on, the National Flood Insurance Program (NFIP) to complete real estate transactions for properties located in a floodplain. NAR is concerned about factors that undermine the NFIP's fiscal or actuarial soundness, or that may inhibit the NFIP's ability to provide flood insurance to property owners. Repetitive loss properties fit into this category. Although repetitive loss properties constitute a small number of the actual properties insured by the NFIP, these properties are responsible for an inordinately large number of claims. They are a significant financial and resource drain on the program, and NAR supports any initiative to either remove these properties from the system or require them to pay premiums that reflect the risk incurred by their location in the floodplain.

In the September 15, 2004 Federal Register notice, FEMA requested input from affected groups and stakeholders on the development of the Severe Repetitive Loss Properties Pilot Program. FEMA posed ten questions addressing various aspects of the Pilot Program. The following are NAR's responses to these questions.

1. What key factors should FEMA consider in developing the Pilot Program for Mitigation of Severe Repetitive Loss Properties under Section 1361A?

There are a number of factors that FEMA should consider in developing the Pilot Program. First, the Pilot Program should be focused on repetitive loss properties that have experienced personal losses or the greatest property losses due to flooding. The second factor should be a benefit cost ratio; i.e., what properties can FEMA address that

have greatest benefits and highest returns for the program for the most cost-effective mitigation costs? This factor also relates to Question 8 below. Other factors the Pilot Program should focus on include whether a state or locality has a repetitive loss reduction and prevention plan in place or are conducting other activities to reduce repetitive losses, and the extent of coverage for non-Special Flood Hazard Areas (SFHA) properties.

2. What parameters should FEMA use to define severe repetitive loss for multi-family structures consisting of five or more residences?

NAR has no comment on this issue.

3. What process should FEMA use to notify property owners that their property is considered a severe repetitive loss property as defined by the statute?

As the Pilot Program is developed, it is critical that a property owner notification process is developed that carefully explains and describes the Program, the options available to a property owner to address their repetitive loss property, the appeals process and the financial and other implications of this determination. The initial notification step should occur when the flood insurance renewal notice is distributed to the property owner. This will alert the owner that their property has been determined to be a severe repetitive loss property. This will also allow the property owner to ask the flood insurance provider any questions about this determination, including sources of additional information. After this initial notification has occurred, FEMA should send a certified letter to the property owner which explains, in layman's terms, FEMA's determination that the property is a repetitive loss property, the implications of this determination, the appeals process, and mitigation alternatives. If no response is received, the letter should be followed by one additional letter, phone calls, and if necessary, a personal, face-to-face visit to the property.

It is critical that this notification process not occur in a vacuum. While this notification effort is occurring, FEMA should also conduct overlapping communications with Realtors, insurers, lenders and government officials in the community to alert them that this process is occurring. These individuals and organizations should also be provided with similar information about the Program so that in case the property owner contacts them, they will be able to answer any questions the property owner has.

4. What criteria should FEMA consider when allocating funds to states and/or communities under the Pilot Program?

Funds distribution should be based on the number of severe repetitive loss properties in the state.

5. Should there be caps on Pilot Program funding for States and communities similar to Flood Mitigation Assistance program funds?

NAR has no comment on this issue.

6. What criteria should FEMA use to review and approve State mitigation plans consistent with 44 CFR Part 201?

NAR has no comment on this issue.

7. What criteria should FEMA use to make the determination that a State has taken actions to reduce the number of severe repetitive loss properties in its communities?

FEMA should judge states on three criteria: (1) Does the state have a current severe repetitive loss reduction and prevention plan in place; (2) is the plan operational and has the plan performed as intended; and (3) have severe repetitive loss properties been reduced?

8. What criteria should FEMA use to determine projects that will result in the greatest amount of savings to the National Flood Insurance Fund?

FEMA should utilize a quantifiable benefit-cost ratio analysis to evaluate those projects that will have the greatest amount of savings.

9. What types of assistance do States and Communities want from FEMA when making offers to owners of severe repetitive loss properties?

NAR has no comment on this issue.

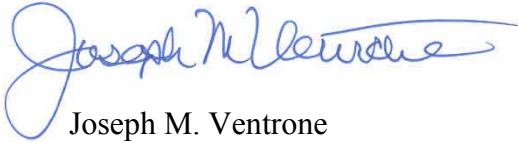
10. What role should States and communities have in the appeals process for severe repetitive loss property owners who decline mitigation offers under the Pilot Program? What rules and procedures should be contained in the appeals process?

The appeals process is a critical opportunity for property owners to dispute FEMA's determination of their property as a severe repetitive loss property and address FEMA's options for mitigation alternatives. First, FEMA should communicate very clearly at the beginning of the process that FEMA's severe repetitive loss determination and their mitigation offer can be appealed. All information regarding the appeals process, including rules, regulations and contact person, should be made available to the property owner, in both verbal and written formats.

The appeals process should be as streamlined and designed to obtain an answer for the property owner as quickly as possible. All appropriate data relating to the property, including accurate flooding, loss and claims data should also be provided to the owner. In addition, FEMA should clarify the term "offer" in relationship to an offer of compensation to acquire the property and a discussion of mitigation alternatives. The term should be clearly defined, as well as at what point in the process an offer is made.

The National Association of Realtors® appreciates the opportunity to comment on the development of the Pilot Program for the Mitigation of Severe Repetitive Loss Properties. Please contact Russell W. Riggs, at 202-383-1259 for any questions regarding these comments.

Sincerely,



Joseph M. Ventrone
Managing Director
Regulatory and Industry Relations