



FEMA

May 9, 2006

Attorney General Zulima V. Farber
Office of the Attorney General
New Jersey Department of Law and Safety
P.O. Box 800
Trenton, New Jersey 08625-0800

Dear Ms. Farber:

On November 30, 2005, we sent a letter to your predecessor, Peter C. Harvey, regarding serious concerns and issues that the Federal Emergency Management Agency (FEMA) had over the local administration of the National Flood Insurance Program (NFIP) in New Jersey. The NFIP provides flood insurance to property owners and residents of communities that adopt and enforce sound local floodplain management regulations. In New Jersey, local communities have adopted and are expected to enforce Local Flood Damage Prevention Ordinances that contain at least the minimum standards for floodplain management that FEMA publishes at 44 CFR 59.1, 60.6 (a) – (e) and 60.6 (a).

It had been brought to our attention that the New Jersey Rehabilitation Subcode prohibited the establishment of any "code, ordinance, rule, regulation of any municipality, county, board, department, commission or agency . . . for any matter covered by (the) subcode." Our concern centered on the requirement for local communities to enforce the "substantial damage" and "substantial improvement" standards contained in these local ordinances, work that is covered under the Rehabilitation Subcode. Floodplain management requirements for new construction are contained in the New Jersey Building code, so new construction was not an issue.

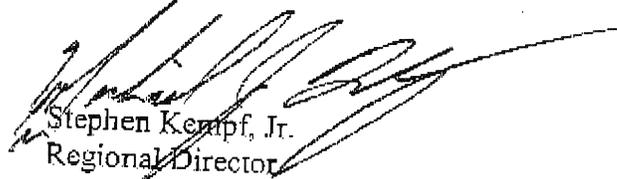
The New Jersey Department of Environmental Protection (NJDEP), which is the NFIP Coordinating Agency for the State, arranged a meeting that included FEMA, the New Jersey Department of Community Affairs (NJDEA) and NJDEP. At that meeting the issues that we had with local enforcement of the Local Flood Damage Prevention Ordinances were resolved.

The NJDEA informed the group that they view these local ordinances as "land-use" regulations, rather than building codes, and when a project is located in the Special Flood Hazard Area (SFHA) "prior approval" by the Local Flood Plain Administrator (LPA) is required before a building permit can be issued. If the LPA is also the Construction Official, the Construction Official is expected to review the application and establish the floodplain development requirements before a construction permit is issued. Further, the

Director of the Division of Codes and Standards indicated that the NJDCA expected Construction Officials to assure that all construction in the community was in full compliance with all construction and land-use requirements. A procedure was established for FEMA and/or the NJDEP to follow when noncompliant floodplain construction was identified. Points of Contact at the NDCA Division of Codes and Standards were established to which noncompliant construction is to be referred. This includes both new construction and rehabilitation that meets the standard of "substantial damage" or "substantial improvement".

We appreciate the cooperation and efforts of both the NJDCA and the NJDEP in assisting us to resolve our concerns. If you have questions or need additional information, please have your staff contact Mary Colvin, Chief, Community Mitigation Programs at (212) 680-3622 or mary.colvin@dhs.gov.

Sincerely,



Stephen Kempf, Jr.
Regional Director

cc: Susan Bass Levine, Commissioner, DCA
William M. Connolly, Director, Division of Standards and Codes, DCA
Captain Jerome Hatfield, Executive Officer, NJOEM
Lisa Jackson, Commissioner, NJDEP
David Rosenblatt, Administrator, Office of Engineering & Construction, NJDEP
John E. Moyle, P.E., NFIP Coordinator, NJDEP