



Legal Counsel to Great Companies

Disaster Legal Services for Flood Victims

Jerry Lutz - Perkins Coie, LLP

Cesar Torres - Northwest Justice Project

*Julia A. Bahner – LandAmerica Financial
Group, Inc., ABA/YLD District 29
(Washington/Oregon) Representative*



December 2007 Events

- Severe winds, floods, landslides and mudslides in Western WA
- In some areas, water rose to levels not seen in 50 years or more; floods shut down Interstate 5 for days
- Governor Gregoire declared statewide emergency; sought \$13 million for housing related assistance
- Outpouring of community support (clothing, food water, cash donations)
- Between December 9, 2007 and January 10, 2008, FEMA declared residents of 10 Washington counties eligible for Disaster Assistance
- WA Emergency Management Division - Worst flood since 1996

Washington Counties by Date of FEMA Declaration

- County Date Declared Eligible for Individual Assistance
 - Grays Harbor - December 9, 2007
 - Lewis - December 9, 2007
 - Mason - December 15, 2007
 - Pacific - December 15, 2007
 - Thurston - December 15, 2007
 - Kitsap - December 19, 2007
 - Clallam - December 19, 2007
 - Snohomish - December 21, 2007
 - King - December 21, 2007
 - Wahkiakum - January 10, 2008

Situation as of January 10, 2008

- More than 2,600 Washington individuals and households have been approved for more than \$18.5 million in FEMA disaster assistance within the first month of the disaster
- 8,685 persons have registered for FEMA assistance during the period in question (roughly 30% approved)
- FEMA is offering free crisis counseling for affected households
 - <http://www.wadisasternews.com/go/doc/1105/188351/>
- IRS and SBA offering webinars (taxpayer relief)
 - <http://www.wadisasternews.com/go/doc/1105/188044/>

Individual and Households Assistance in Washington Counties as of Jan. 6, 2008

<u>Clalam County</u> Registrations: 182 Approved: 126 Funding: \$73,823.97	<u>Grays Harbor County</u> Registrations: 3,214 Approved: 1,744 Funding: \$1,158,713.36	<u>King County</u> Registrations: 534 Approved: 450 Funding: \$769,640.35
<u>Kitsap County</u> Registrations: 630 Approved: 510 Funding: \$858,678.45	<u>Lewis County</u> Registrations: 2,290 Approved: 1,755 Funding: \$8,907,644.02	<u>Mason County</u> Registrations: 510 Approved: 366 Funding: \$859,948.06
<u>Pacific County</u> Registrations: 848 Approved: 449 Funding: \$286,177.48	<u>Snohomish County</u> Registrations: 217 Approved: 194 Funding: \$310,609.05	<u>Thurston County</u> Registrations: 260 Approved: 199 Funding: \$433,401.45

Disaster Legal Needs

- Help with applications for and denials of governmental assistance programs (disaster unemployment, food stamps, FEMA, Small Business Administration Loans)
- Advice and assistance on landlord/tenant problems
- Advice and assistance on eviction or foreclosure problems
- Help with broad range of insurance claims (loss of property, doctor and hospital bills, loss of life, etc.)
- Help with home repair contracts and contractors
- Help with FEMA recoupment disputes
- Preparing powers of attorney
- Drawing up new wills and other legal papers lost in the flood
- Help with guardianship and other similar legal papers

Disaster Legal Needs Types/Timeline

- Month 1: Survival, not legal needs
- Month 2: Family, Government Benefits, Housing (especially landlord tenant), FEMA, Insurance issues
- Month 3: Unemployment
- Month 6: Consumer (generally)
- Timeline: Needs Peak
 - Month 1-7: Government Benefits
 - Month 4-8: Family
 - Month 6-12: Unemployment
 - Every month: Housing
 - Months 16+: Consumer

Federal Emergency Management Act (FEMA)



- Stafford Act 42 U.S.C. § 5174
- 44 C.F.R. §§ 206.110-206.119
- Benefits available:
 - Rental/housing assistance
 - Emergency repair
 - Home replacement
 - Assistance for personal needs
- Individuals and household program

Applying for FEMA Benefits

- Determine if county/state is listed on FEMA as an area covered by a disaster declaration
- <http://www.fema.gov/femaNews/disasterSearch.do>
- Qualified Recipients
 - Individuals and households with no (or insufficient) insurance affected by disaster
 - U.S. Citizen, Non-Citizen National, or a Qualified Alien (has legal permanent residence or green card)
 - Undocumented immigrants – eligible for benefits on behalf of minor child that is US Citizen or Qualified Alien



Applying for FEMA Benefits

- Application process:
 - Initial interview by telephone
 - Application mailed to applicant, who must sign
 - Applicant referred to other programs (SBA)
 - Disaster dwelling inspected by FEMA
 - Letter of determination within 10 days of inspection
 - If approved for assistance, a check will be sent
- Deadlines for registration with FEMA:
 - 60 days after declaration, plus a 60 day extension if justified
 - Current deadline for registration is February 7, 2008
 - Deadlines for unemployment assistance vary depending on when the county was added to the declaration for FEMA relief
 - <http://www.fema.gov/news/event.fema?id=9126>

Individuals and Household Program

- FEMA provides Individual Assistance to disaster victims
- Assistance is available for housing needs and necessary expenses
- For IHP aid for housing, must be individual's primary residence and must be located in disaster area designated for Individual Assistance
- For IHP aid for necessary expenses or serious needs, the loss must have occurred in disaster area designated for Individual Assistance
- http://www.fema.gov/pdf/assistance/process/help_after_disaster_english.pdf

Individuals & Household Program

- Benefits for:
 - Temporary housing
 - Repair or Replacement
 - Permanent Housing Construction
 - Other needs
- Household composition
- Use of assistance limited
- Duration of assistance
 - One-time payment for repairs
 - Temporary housing – 1-3 months
 - Maximum period is 18 months (extension is possible)

Denial of Benefits

- FEMA may deny an application
 - FEMA will include reasons for the denial in a decision letter. Denial reasons are explained on FEMA's website.
 - http://www.fema.gov/assistance/process/why_not_eligible.shtm
- Appeals
 - Any applicant or member of the applicants household may appeal any decision (including IHP) within 60 days of decision letter.
 - http://www.fema.gov/assistance/process/case_review.shtm

Small Business Administration (SBA) Disaster Loans

- SBA provides disaster loans for eligible applicants
 - 15 U.S.C. § 636(b), (c)
 - 13 C.F.R § 123
- Must have a disaster related need and the ability to pay the loan back (FEMA screens to ensure)
- Three types of disaster loans for qualified homeowners and businesses:
 - Home disaster – for renters and homeowners to repair or replace damages to home or personal property
 - Business disaster – for business owners to repair or replace damaged property, inventory and supplies
 - Economic injury disaster – loans for small businesses and small agricultural cooperatives to assist during recovery period
- Apply at www.sba.gov or by phone: (800) 659-2955

Insurance Claims

- File a claim with insurance company
- Get an estimate or appraisal of damage from an inspector
- Obtain assistance from state insurance agency if necessary
- Offers of payment and settlement
- Denial of coverage
- Additional assistance may be available from FEMA if insurance does not repair or replace all of the damage
- <http://www.lawhelp.org/states/showdocument.cfm/State/AL/doctype/dynamicdoc/ichannelprofileid/21607/iDynamicDocID/2635/foreignLanguage/1#insurance>

Recouping Funds

- FEMA may recoup the grant provided to the applicant if it is not used for intended purposes
- If individual has insurance, any money from FEMA is considered an advance and must be repaid upon insurance settlement
- Avoid duplication of funds:
<http://www.wadisasternews.com/go/doc/1105/187684/>

Hierarchy of Benefits

- **Other resources are available:**
 - Red Cross assistance
 - Other voluntary relief efforts (local/county organizations, churches, etc.)
 - Insurance proceeds
 - SBA loans for personal and business use
 - FEMA benefits
 - Other benefits available through federal and state programs

Information for Assistance and Resources

- Federal Emergency Management Act: www.fema.gov or 1-800-621-FEMA
- Washington Military Department Emergency Management Division: <http://emd.wa.gov>
- Municipal & Other Emergency Management Agencies: http://www.emd.wa.gov/about/emergency_management_agencies.shtml
- List of agencies available from FEMA: <https://www.disasteraid.fema.gov/IAC/DataView.do?page=disasters>
- Red Cross: www.redcross.org
- WSBA Disaster Legal Services line: 1-866-519-7099
- Local Community Organizations
- Local Newspapers
- Northwest Justice Project
- <http://www.washingtonlawhelp.org>
- http://www.abanet.org/legalservices/probono/disaster_relief_legal_assistance.html

Questions?

