



FEMA

Sent Via Email

January 3, 2023

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Re: Reclaiming Public Assistance Funding for Repairing the Penfield Pavilion

Dear Thomas Bremer, Deputy Commissioner Bergeron, and Director Turner:

I am responding to the Town of Fairfield's ("Town") letter of November 2, 2022, in which it asked whether there was an opportunity for the Town to "reclaim" financial assistance under the Public Assistance Program to repair the Penfield Pavilion now that it has committed to bring the structure into compliance with the minimum floodplain management standards at 44 C.F.R. pt. 60. Unfortunately, the answer is no.

The Federal Emergency Management Agency ("FEMA") originally awarded Project Worksheet #680 under major disaster FEMA-4087-DR-CT to repair the Penfield Pavilion with a project cost of \$4,340,054.11 and later terminated this project and disallowed all costs because the Town changed the scope of work without prior approval; completed the changed scope of work

without affording FEMA an opportunity to complete its environmental and historic preservation reviews; constructed the foundation of the Pavilion in violation of the minimum floodplain management standards at 44 C.F.R. pt. 60; and failed to obtain a consistency determination required by the Coastal Zone Management Act implementing regulations. The Town submitted a first appeal to this determination, which the Regional Administrator denied on June 20, 2019. The Town then submitted a second appeal to this determination, which the Public Assistance Division Director, FEMA Office of Response and Recovery denied on March 31, 2021.

The second appeal decision comprised the final agency decision concerning this matter pursuant to 44 C.F.R. § 206.206, Appeals. Furthermore, there is no provision in the regulation allowing for an applicant to submit a reconsideration request concerning a final agency decision and no provision in federal law or regulation calling for FEMA to reinstate a properly terminated Public Assistance project.

Sincerely,

Robert Grimley
Recovery Division Director
FEMA Region I