

From: [Garrett, Jonathan](#)
To: [Reed, Shawn](#); [Girardi, James](#); [Wendt, James](#); [Harrigan, Emmeline](#); [First Selectwoman](#)
Cc: [Ifkovic, Diane](#); [Sweeney, Daisy](#); [Kaput, Molly](#)
Subject: NFIP Concerns regarding Penfield Pavilion
Date: Wednesday, June 9, 2021 1:43:13 PM
Attachments: [DR-4087-CT Fairfield PW 680 Penfield Pavilion - Floodplain Mgmt Determination signed letter 28 NOV 2018.pdf](#)
[2nd appeal determination FEMA-4087-DR-CT Town of Fairfield PW 680.pdf](#)

Good Afternoon,

On behalf of the FEMA Region 1 office, Floodplain Management & Insurance Branch, I am reaching out today regarding the status of Penfield Pavilion in Fairfield, CT. This reconstruction project was initially approved through FEMA's Public Assistance (PA) program based upon damages incurred during Hurricane Sandy (2012). As you are likely aware, the Penfield Pavilion has been the subject of a denial of funding and two subsequent appeals with FEMA's Public Assistance program between 2019 and this year (Project Worksheet #680). The second and final appeal result was a denial issued by FEMA Headquarters and communicated to the Connecticut Division of Emergency Management and Homeland Security (DEMHS) on March 31st of this year; I have attached this letter for your reference.

The initial denial and appeal process stemmed from an unapproved scope of work change which raised two significant issues:

1. FEMA was unable to complete an Environmental & Historic Preservation review of the amended SOW, which is a core regulatory requirement for PA funding; and
2. The amended SOW and finished construction were determined to be in violation of the regulations of the National Flood Insurance Program (NFIP), specifically 44 C.F.R. § 60.3(e)5, which requires *"that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor free of obstruction,"* due to the placement of horizontal grade beams below the Base Flood Elevation and above the natural grade at the site.

On November 28, 2018, the FEMA Regional office issued two determination letters related to this project:

1. A Public Assistance determination letter stating that the unapproved SOW amendment would result in a denial of funds and termination of the Project Worksheet. This initiated the appeal process which has recently concluded.
2. A Floodplain Management determination letter stating that the Regional office considered the project to be in violation of the NFIP regulation 44 C.F.R. § 60.3(e)5. I have attached this letter for your reference.

It is the standard procedure of the Floodplain Management & Insurance branch to directly engage communities in order to achieve full compliance on any violations of the NFIP regulations. However, due to the ongoing appeal process it was determined that this would be put on hold pending the conclusion of the second appeal. With the appeal fully resolved, ***FEMA defers to the findings articulated in the Floodplain Management determination letter from November 28, 2018, and considers this a violation of the NFIP regulation 44 C.F.R. § 60.3(e)5, which needs to be remedied by the community of Fairfield.*** Both FEMA staff and the Connecticut State NFIP Coordinator, Diane

Ifkovic, are available to support moving this process forward, and we encourage you to maintain steady communication as you work to identify solutions.

FEMA staff have additionally identified Fairfield as a community which is appropriate for conducting a Community Assistance Contact (CAC) in Summer of 2021. This process will include a brief overview of the National Flood Insurance Program and community-specific information about floodplain management regulations; flood map availability, accuracy, and recent flooding history; and development permit review process. It is meant to be a good educational opportunity and a chance for some one-on-one technical assistance. Your staff should anticipate formal correspondence related to the scheduling of this CAC in coming weeks, however, initiating engagement on the Penfield Pavilion is a great opportunity to start the dialogue and will position you to approach the CAC more comprehensively. We would ask that you begin to think about dates that might work best for your staff and communicate those to us as you are able.

The FEMA Regional office kindly requests that you respond to this correspondence within 30 days, and we look forward to working with you on resolving this issue.

Thank you,

Jon Garrett, CFM
Emergency Management Specialist | FEMA Region I
Floodplain Management & Insurance Branch
Office: 617.956.7570 | Cell: 202.718.3915
Email: jonathan.garrett@fema.dhs.gov