

FAIRNESS IN FEDERAL DISASTER RELIEF

Policy

Community Associations Institute (CAI) supports a legislative or regulatory change to the Robert T. Stafford Disaster Relief and Emergency Assistance Act so that community associations are eligible for federal assistance following a disaster, including, but not limited to, debris removal and cleanup.

Background

When disasters strike and the President declares a region to be a disaster area, the Federal Emergency Management Agency (FEMA) enters to provide assistance, which may include debris cleanup and financial aid to eligible individuals and communities. However, existing FEMA policy specifically excludes community association roads from receiving federal assistance for debris cleanup. Moreover, there has never been a thorough vetting by legislators or regulators on how to classify community association roads.

At the core of this issue is the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”, 42 U.S.C. 5121-5206 and Related Authorities), which governs FEMA. The Stafford Act allows for financial assistance to states, counties, municipalities, as well as eligible “private nonprofit facilities,” which are defined as entities that “provide essential services of a government nature to the general public.” Currently, community association roads do not meet the requirements to be deemed “essential” and, therefore, are not included on FEMA’s list of eligible private nonprofit facilities.

It should be noted that the Stafford Act actually gives the President the discretion to

- 1.) use Federal departments, agencies and instrumentalities to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and
- 2.) make grants to any state or local government or owner or operator of a private nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters. But, in practice, assistance is not extended to community associations.

This policy has cost community associations millions of dollars over the years, despite the fact that,

- a.) community association residents pay the same federal taxes as non-association residents and are equally in need of help as any other community after a disaster strikes, and
- b.) most association roads, like any other municipal or county roads, are used by the local police, fire department, paramedics, school buses, and may be open to the public.

The Stafford Act was passed to “alleviate the suffering and damage which result from disasters” by “providing Federal assistance programs for both public and private losses sustained in disasters.” Regardless of whether community associations are viewed as

public or private, the government has a duty not to exclude assistance in their time of need to the 62 million homeowners who live in common interest communities.

RECOMMENDATION

CAI in conjunction with the state Legislative Action Committees are urged to continue to advocate that community associations should be eligible and entitled to federal assistance in the wake of a disaster. This can be accomplished by classifying community association roads as essential under FEMA or, alternatively, implementing regular policies that would direct the President's authority under the Stafford Act to provide relief to communities suffering a disaster.

08/09/2012 No Individual Assistance
MetroNews - Charleston, WV/Kanawha County

West Virginians will not get individual assistance. FEMA Thursday denied the request by Governor Earl Ray Tomblin for individual assistance for several counties following the June 29th derecho.

Governor Tomblin issued the following statement regarding the news.

"I strongly disagree with FEMA's decision to deny sorely needed federal assistance to the victims of the unprecedented June 2012 derecho," Gov. Tomblin said. "I intend to appeal this decision and ask our Congressional Delegation to arrange a meeting with the FEMA leadership as soon as possible so that I can explain firsthand the devastation that I witnessed in the wake of this storm. While I hope an appeal will reverse today's federal decision, I understand there are many families struggling to recover from the significant financial impact of the storm, and I appreciate the many organizations throughout West Virginia that continue to provide assistance to them."

Tomblin sent a request about two weeks ago seeking individual assistance for several counties in the state that had more than \$1 million in property damage.

The derecho ripped through the state knocking down thousands of trees and caused power outages to two-thirds of the power customers in the state.

SOURCE:

<http://www.wvmetronews.com/news.cfm?func=displayfullstory&storyid=54278>

Derecho - *a widespread, long-lived, straight-line windstorm that is associated with a fast-moving band of severe thunderstorms*

Unlike other thunderstorms, which typically can be heard in the distance when approaching, a derecho seems to strike suddenly. Within minutes, extremely high winds can arise, strong enough to knock over highway signs and topple large trees. These winds

are accompanied by spraying rain and frequent lightning from all directions. It is dangerous to drive under these conditions, especially at night, because of blowing debris and obstructed roadways. A derecho moves through quickly, but can do much damage in a short time.

Since derechos occur during warm months and often in places with cold winter climates, people who are most at risk are those involved in outdoor activities. Campers, hikers, and motorists are most at risk because of falling trees toppled over by straight-line winds. Wide swaths of forest have been felled by such storms. People who live in mobile homes are also at risk; mobile homes that are not anchored to the ground may be overturned from the high winds. Across the United States, Michigan and New York have incurred a significant portion of the fatalities from derechos. Prior to Hurricane Katrina, the death toll from derechos and hurricanes were comparable for the United States.

Derechos may also severely damage an urban area's electrical distribution system, especially if these services are routed above ground. The derecho that struck Chicago, Illinois on 11 July 2011 left more than 860,000 people without electricity. The June 2012 North American derecho took out electrical power to more than 3.7 million customers starting in the Midwestern United States, across the central Appalachians, into the Mid-Atlantic States during a heat wave.