



How to Appeal a FEMA Denial for Community Association Disaster Relief

Community associations impacted by federally declared national disasters continue to face high recovery costs as local governments are denied Federal Emergency Management Agency (FEMA) reimbursement for debris removal and other disaster recovery expenses in community associations.

CAI encourages homeowners and community associations to appeal FEMA reimbursement denials for debris removal in community associations on the basis that the work was in the public interest and that the local government had a legal obligation to clear debris from community associations.

FEMA Restricts Assistance for Private Property

In general, FEMA regulations classify all roads and waterways in community associations as private property. This classification means that eligibility for debris removal reimbursement is limited. FEMA publications on debris removal activities state—

Debris on private property rarely meets the public interest standard because it does not affect the public-at-large and most often is not the legal responsibility of a State or local government. Debris removal from private property is usually the responsibility of the individual property owner.[1]

To be eligible for reimbursement, FEMA program rules require that debris removal from private property (in this instance a community association) meet two important standards.

- A. FEMA must determine that the debris removal is in the public interest, and
- B. The municipality has an ongoing legal obligation to remove debris from the private property in question.
 - 1. Meeting the Public Interest Standard

FEMA defines “public interest” as debris removal that is necessary to:

- 1) Eliminate immediate threats to life and public health and safety; or
- 2) Eliminate immediate threats of significant damage to improved public or private property; or
- 3) Ensure economic recovery of the affected community to the benefit of the community-at-large.

Municipalities are required to provide in writing the basis for a determination that debris removal satisfies one of the components of the public interest standard. Examples of such documentation include the specific threats to life as determined by an agency with the legal responsibility and expertise to determine such conditions exist; a cost-benefit analysis that shows debris removal is more cost effective than not removing the debris; and documentation demonstrating that removal of debris from private property will expedite recovery of the community-at-large.

2. Demonstrating a Legal Obligation

FEMA requires that municipalities prove both a legal obligation and the authority to remove storm-related debris from private property. For example, a municipality must demonstrate that it is compelled by State statute or local ordinance to remove debris from a community association, that the legal obligation was in place at the time of the disaster, and that the municipality would remove the debris even if it did not anticipate FEMA reimbursement.

APPEAL A REJECTION DECISION

Engage Your Local Government

If your local government removed debris from association roads and waterways and FEMA denied a reimbursement request, encourage your local officials to file an appeal. Additionally, FEMA officials have engaged in community outreach efforts to inform local officials that debris removal from private property is eligible for reimbursement. All units of local government should be encouraged to contact FEMA representatives to ensure that the municipality and community associations receive full federal disaster recovery assistance.

If you received a letter from FEMA stating you, your community association or your municipality is not eligible for assistance, it does not necessarily mean you have reached an end in the application process. Your letter tells you how to appeal the decision and what additional information you need to provide to FEMA, in order for your case to be reviewed again. It is important to note that you must submit an appeal within 60 days of the date on the determination letter you received.

Don't wait to encourage your local government to file an appeal! Community associations deserve equal access to federal disaster assistance and sometimes municipal governments are hesitant to provide disaster recovery services to associations for fear FEMA will refuse to reimburse these costs. Having our local officials successfully appeal FEMA denials for debris removal in associations will help change the culture of denying community associations FEMA disaster relief.

Be sure to read your FEMA denial carefully. FEMA may only need you to provide additional documentation in the case. The appeal must include new or missing information, documents and damage repair estimates that support the appeal request. It is important to date the appeal letter and mail it to the proper address which can be found [here on FEMA's website](#). Other contact information and instructions are also included in the link.

INELIGIBLE APPEALS

Support Direct Access to FEMA Funding for Associations

If your association paid to have debris removed from your community, the association is not eligible for FEMA reimbursement. Further, your local community government may not apply for FEMA reimbursement on behalf of the association. FEMA will only reimburse municipalities and State government agencies for debris removal in community associations. Under FEMA rules, community associations are not eligible to apply directly to FEMA under the Public Assistance program and therefore will not reimburse a community association for debris removal expenses that the association itself incurred.[2]

For decades, community associations have been denied equal access to federal disaster recovery assistance. With your help and voice, this can change. Residents of community associations should be treated equally with all other taxpayers and should be eligible to participate directly in FEMA disaster response programs. CAI continues to work on behalf of the 62.5 million people living in America's 325,000 community associations to create equity in this important disaster recovery and other issues important to the sustainability of community associations and enhancement of community living.

Questions or comments may be directed to CAI's Government & Public Affairs Team at government@caionline.org or 888.224.4321.

[1] Public Assistance Applicant Handbook—FEMA P-323 (2010); p. 14. A similar statement may be found in FEMA's Public Assistance Debris Management Guide (FEMA-325/July 2007).

[2] While it is possible for a community association to meet FEMA's applicant eligibility requirements under the Public Assistance Program as a qualified private nonprofit, this is not common. The vast majority of community associations do not meet FEMA eligibility rules to directly participate in the Public Assistance program.