



CITY OF IOWA CITY

City Attorney's Office
410 East Washington Street
Iowa City, Iowa 52240-1826
(319) 356-5030
(319) 356-5008 FAX
www.icgov.org

April 20, 2009

Dear Homeowner:

I am writing to all persons who have indicated that they wish the City to buy their homes through the Hazard Mitigation Grant Program (HMGP), which is often referred to as the "buyout program." Since my January 26 letter, City staff has obtained more information about how the duplication of benefits process will work, and City staff has revised its appeals process.

From conversations with officials at the State of Iowa and FEMA, City staff believes that the grant likely will be awarded in May. The City will not make a written offer to purchase your property until the HMGP funds have been awarded.

Duplication of Benefits

The City is required by federal law to ensure that there is not a "duplication of benefits" between HMGP and other forms of government assistance. As a result, the City's offer will be contingent on any duplication of benefits ("DOB"). This means that the City must reduce the purchase price by the amount of FEMA assistance and/or flood insurance, unless the property owner can verify that the funds were expended on repairs or clean up. If you received an SBA loan, the offer will be contingent on the owner paying off the SBA loan at closing.

As David Purdy said in his recent email and as I said in my earlier letter, the most important thing for you to do is to make sure that you have receipts to show how you spent the assistance. If the receipts show that the assistance was used to repair and clean up the home, then the amount of the assistance is not a DOB and will not be deducted from the purchase price. David will be contacting you in the future to gather copies of all the receipts, and he will submit them to FEMA for review.

The City will not be able to schedule a closing until staff receives the DOB determination from FEMA. State officials have indicated that it will take FEMA at least one month after it receives the submission of receipts to issue a letter with the DOB amount.

David's recent email included an attachment with three scenarios to illustrate how the DOB works. If you have questions about the DOB, please contact David.

Appeal Process

Previously City staff understood that the owner could appeal both the City's value of the home (the 112% of assessed value) and the DOB. State and FEMA have now told City staff that the DOB cannot be appealed.

Let me explain why City staff understood that the owner could appeal the DOB determination. Enclosed please find a copy of page 3-8 of the State of Iowa HMGP Property Acquisition Handbook. Based on the State handbook, the City of Iowa City designed an appeals process that allowed the homeowner to "challenge the ... DOB or other deductions." After creating the appeals process and informing homeowners of it, a FEMA official told City staff that notwithstanding the language of the handbook a homeowner could not appeal the DOB figure, a conclusion that was confirmed by John Wageman, the State Hazard Mitigation officer.

As a result, only the City's determination of the value of your home can be appealed. I am enclosing a copy of the revised appeals process, which is also available on the City's website.

As noted in my earlier letter, after the City makes you a written offer, you will be working with two members of my staff, Mary McChristy, a legal assistant, and Sue Dulek, an assistant city attorney. You should feel free to contact either Mary or Sue with any questions you have throughout the acquisition process.

Sincerely,



Eleanor M. Dilkes
City Attorney

Enc.

Copy to:

City Council-w/enc.

City Clerk-w/enc.

Dale E. Helling-w/ enc.

David Purdy-w/ enc.

Mary McChristy-w/enc.

Sue Dulek-w/ enc.

THE APPLICATION PROCESS

- **Prepare a press release.** If you are awarded the project grant, plan to issue a press release announcing the award.
- **Draft contracts, policies, and procedures.** You may need to hire contractors for some grant activities, such as demolition. You must follow federal procurement regulations, which require you to solicit competitive bids. Your community also may have local procurement policies in place for you to follow. If your community does not have procurement policies in place, contact the Iowa Department of Administrative Services, General Services Enterprise, Procurement Services for guidance (<http://das.gse.iowa.gov/procurement/index.html>). Remember, until you are officially awarded a grant, you cannot solicit bids.
- **Draft your appeals process.** Begin to consider your procedures for resolving conflicts that might arise between property owners and the community. Design an appeals process whereby property owners can challenge the fair market value of their property and DOB or other deductions. Your procedures should address how the appeals must be submitted, who will receive them, who will evaluate them, and what criteria will be used to evaluate them.
- **Property taxes.** Determine when the community will assume responsibility for property taxes. Some communities require the property owner to pay property taxes through the closing date on the sale of the property. Other communities only require property owners to pay through the date of the disaster or the declaration. When considering your policy, consider the amount your community will lose from that year's property taxes.
- **Determine the date the property must be vacated.** Residents should vacate the property on or before the date of closing. Be as precise as possible when stating when residents must vacate. If your community intends to give property owners some degree of flexibility, establish specific conditions.
- **Determine decent, safe, and sanitary replacement housing.** Property owners who receive Replacement Housing Assistance are required to procure decent, safe and sanitary housing outside of the hazard area. Determine what major systems or conditions will satisfy the community's determination of decent, safe and sanitary replacement housing.
- **Draft documents requiring property owners' signatures.** These documents are necessary for the implementation of your property acquisition project. Examples of these documents include an offer letter, which contains specific instructions to the property owner for participating in the project, and a formal Statement of Voluntary Participation, if not already completed.

CITY OF IOWA CITY HMGP APPEALS PROCEDURE



CITY OF IOWA CITY

410 East Washington Street
Iowa City, Iowa 52240-1826
(319) 356-5000
(319) 356-5009 FAX
www.icgov.org

Right to appeal. You have the right to appeal the City's determination of the market value of your property in the City's offer to buy your property through the Hazard Mitigation Grant Program (HMGP). The written purchase offer to the homeowner and the appeals process will not start until Iowa City has been allocated HMGP funds and HMGP agreements have been signed.

Owner at the time of the flood. If you owned the property at the time of the flood, the amount of the purchase offer is the pre-market value of the property less any deductions. The City's pre-flood market value is 112% of the 2008 assessed value. This valuation method is based on comparing the assessed value to the sale price of properties in Parkview Terrace that were sold between June 2006 and June 2008. You have the right to appeal the amount of the pre-market value.

Duplication of benefits/deductions. Please note that the amount you will receive at closing is not necessarily equal to the amount of the pre-market value of the property. In arriving at the final purchase price, the City is required by federal law (42 U.S.C. §5155, 44 C.F.R. 80.9, and 44 C.F.R. 206.191) to ensure that there is not a "duplication of benefits" between HMGP and other forms of government assistance. FEMA will provide to the City the amount of duplication of benefits. You do not have the right to appeal the amount of any deductions.

Purchased the property after the flood. If you purchased the property after the flood, the amount of the purchase offer is the current market value of the property. A determination of market value in such cases will be made on a case-by-case basis.

Deadline to appeal. All appeals must be submitted within thirty (30) days from the date of the offer. Please use the attached form to submit the appeal. The written appeal should be addressed to:

City Attorney
City Hall
410 E. Washington Street
Iowa City, IA 52240

Hearing date. The appeal hearing will be at a date and time convenient to you. You will get written notice of the date, time, and place of the hearing. After receiving notice of your appeal, the City may choose to obtain its own appraisal which may require additional time before the hearing can be scheduled.

Hearing procedure.

- The appeal will be heard by a hearing officer.
- You may have anyone attend the hearing that you believe will help you. You have the right to be represented by legal counsel or other representatives in connection with your appeal at any time, but that representation is solely at your expense. The City of Iowa City will have staff in attendance as well.

- Both you and the City of Iowa City will be given full and equal opportunity to be heard, and both may present oral and written information on an informal basis without regard to the rules of evidence. Both also may object to information presented and question those presenting information.
- You may inspect and copy all materials that the City of Iowa City has pertinent to your appeal.

Decision on appeal. The hearing officer will make a written decision within thirty (30) days and mail it you. The decision will summarize all the information considered including a list of the documents submitted and the records reviewed. The decision will explain the rationale underlying the decision.

Hearing officer's decision is the only appeal. If you are dissatisfied with the decision of the hearing officer, there is no further appeal. However, you have the right not to sell the property to the City of Iowa City. The HMGP is a voluntary program.

Revised April 2009