

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: DCA Appeals Process Governing the following Sandy Recovery Programs:
Homeowner Resettlement Incentive Program
Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program
Landlord Rental Repair Program (LRRP)
LMI Homeowners Program

NUMBER: 2.10.7

EFFECTIVE: October 2013
REVISED: February 2014
REVISED: April 2014
REVISED: July 2014
REVISED: March 2015

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APPROVAL:

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PURPOSE:

This policy details the appeals process for the following DCA implemented CDBG-DR funded recovery programs:

- Homeowner Resettlement Incentive Program
- Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program
- Landlord Rental Repair Program (LRRP)
- LMI Homeowners Program

NOTE: This policy replaces in its entirety, Appeals Policy (Number 2.10.7) effective June 2013 and amends the policy adopted October 2013, and amended in February 2014, to be consistent with program policies.

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1. Introduction

The State of New Jersey Department of Community Affairs (DCA) has tasked the Superstorm Sandy Housing Advisors to administer the initial administrative appeals process for three of its Sandy recovery programs funded through the Community Development Block Grant Disaster Recovery (CDBG-DR) program. Housing Center staff shall inform any applicant that appeal determinations of Housing Recovery staff for the Homeowner Resettlement Incentive Program, the Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program, the Landlord Rental Repair Program (LRRP), and the LMI Homeowner Program are filed directly to DCA, Sandy Recovery Division.

The DCA Office of Compliance and Monitoring will undertake an initial review of the relevant facts pertaining to the appeal for each of the programs, listed above. If the initial review of the appeal conducted by a three (3) person panel, made up of staff of the DCA Office of Compliance and Monitoring, upholds the determination of the Housing Program staff, the applicant shall be notified in writing and provided instructions regarding their rights to formally file an appeal. The intention to file a formal appeal must be filed within the prescribed period as set forth herein. Initial reviews of determination that are not overturned by the DCA Office of Compliance and Monitoring are appealable. If the facts of the case can be contested, the case will be referred to the Office of Administrative Law (OAL) for a hearing. In cases where the facts are non-contested, the DCA Commissioner will issue a Final Decision which is appealable to the New Jersey Superior Court, Appellate Division.

Appeal determinations not overturned by OAL and upheld by the DCA Commissioner are also appealable to the Appellate Division in accordance with New Jersey State law.

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2. Decisions Subject to Administrative Appeal

Appeals are limited to actions or decisions that the individual making the appeal (Petitioner) believes to be in conflict with stated program policies or to be based on contestable facts. Program policies established by DCA are not appealable. The following are examples of decisions subject to administrative appeal:

2.1 Homeowner Resettlement Incentive Program

- FEMA registration determination
- Minimum damage threshold determination
- Owner occupied, primary residency determination

For minimum damage threshold determination on appeal, structural damage to the principal residence can be documented by FEMA, FEMA sub-agencies or affiliates, third-party insurers, NFIP, SBA, or other source as accepted by the Sandy Recovery Division.

2.2 Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program

- Eligibility determinations as described in 2.1
- Determination of income
- Determination of award amount
- Determination of Duplication of Benefits

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2.3 Landlord Rental Repair Program:

- Determination of number of units
- Determination of ownership/title documentation
- Determination of award amount
- Determination of occupancy status, work complete/incomplete Determination of Duplication of Benefits

2.4 LMI Homeowners Program

- Eligibility determinations as described in 2.1
- Determination of income
- Determination of award amount
- Determination of Duplication of Benefits

3. Decisions Not Subject to Appeal (non-contested matters) include, but are not limited to, the following:

- Eligible county determination (program policy (excl. LRRP) requires that applicants live in one of the nine most impacted counties as specified in the Federal Register Notice of March 5, 2013);
- Incomplete or non-existent applications for any of the programs;
- The terms and conditions of any required legal agreement such as the Grant Agreement, Escrow Agreement, Promissory Note, and the like;
- Determination of Pre-Storm Value of the damaged residence may not be appealed to the program, but homeowners may appeal the determination to the local taxation authority;
- Requirements imposed by Federal, State, or local law or regulation;

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- Decisions of a local Flood Plain Manager may not be appealed to the Housing Advisor, but may be appealed directly to the Flood Plain Manager;
- Environmental determination; and
- If the municipality of the damaged residence opted out of flood insurance, the applicant does not qualify for any program.

4. Appeals Process

4.1 Submission Requirements

Appeal requests to the DCA Sandy Recovery Division must be postmarked within thirty (30) calendar days of the date of service. Information about the appeal process is available at: <http://www.renewjerseystronger.org/appeal> Information can be also received by calling the Housing Assistance Hotline at 1-855-726-3946. Appeals must be submitted in writing to:

ReNewJersey Stronger Appeals
P.O. Box 32128
Newark, New Jersey, 07102.

The applicant's written request should contain the following information:

- Applicant's name,
- Address of damaged residence,
- Applicant's mailing address,
- Applicant's telephone number,
- Email address (if available),
- The reason(s) the decision or action is being appealed,
- Documentation that supports the request to overturn the decision or action,

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and

- Application number (RSP#, RRE# and/or SRP#).

4.2 DCA Program Operations Processing

Appeals will be received and processed by the DCA Operations staff. Appeals will be date stamped when received and placed on a log for tracking. The DCA Operations staff will submit the written notice of appeal to the DCA Office of Compliance and Monitoring within twenty (20) calendar days of receipt.

5. Department of Community Affairs Review

DCA Office of Compliance and Monitoring staff will initially review appeals relating to actions or decisions made by the DCA Housing Program staff. This staff is independent from the Housing Division that originally made the decision being appealed. If appropriate, the DCA Office of Compliance and Monitoring staff will overturn the initial decision and notify the DCA Housing Program staff. If the DCA Office of Compliance and Monitoring determines that the determination or decision should stand, they will prepare an appeals worksheet and documentation to support the decision for the submission of the appeal to the OAL. The DCA Sandy Recovery Division Appeal Board, consisting of three (3) members shall review the appeal documentation presented by the DCA Office of Compliance and Monitoring. The Appeal Board shall render a decision by majority vote.

If appropriate, the DCA Compliance and Monitoring staff may contact the applicant to allow him/her to provide additional documents to address any deficiency or incomplete information, or to be interviewed to determine the merits of the applicant's appeal.

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If the action or decision of the Housing Program staff is overturned by DCA Appeal Board, notification will specify the corrective action to be taken. For contested cases where ineligibility has been upheld, the Sandy Recovery Division will render a decision and notify the applicant of the decision in writing by certified mail. For non-contested cases, the DCA Commissioner will issue a Final Agency Decision.

6. Appeals to the Office of Administrative Law (OAL):

The decision of the Sandy Recovery Division may be appealed by submitting a petition for a formal hearing before the OAL within thirty (30) days of the date on the letter the applicant receives regarding DCA's final decision. Only contested cases will be forwarded to the OAL.

The written request must be addressed to:

Department of Community Affairs
Appeals Officer
Appeals Unit, Sandy Recovery Division,
P.O. Box 823
Trenton, NJ 08625.

The 30 day appeal period begins 5 days from the date of mailing (the date on the letter) not the date of receipt. If an appeal is forwarded to the OAL a formal hearing before an Administrative Law Judge (ALJ) will be held. The ALJ will issue an initial decision for review by the DCA Commissioner.

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7. Final Decision

For contested cases, the DCA Commissioner will review the initial decision by the OAL and issue a final decision, accepting, modifying, or rejecting the ALJ's initial decision. The OAL decision and the final decision will both be sent to the petitioner at the address provided.

Non-contested cases will not be referred to the OAL. The DCA Commissioner will instead issue a Final Agency Decision which will be appealable directly to the New Jersey Superior Court, Appellate Division.