

SOUTHERN ENVIRONMENTAL LAW CENTER

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November 30, 2000

Charlottesville, VA
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Mr. Michael K. Buckley, P.E.
Director
Technical Services Division
Mitigation Directorate
Federal Emergency Management Agency
500 C St. S.W
Washington, D.C. 20472

Re: Congaree River flood hazard study/Flood Insurance Rate Map (FIRM)
Revisions - Richland and Lexington Counties, South Carolina

Dear Mr. Buckley:

We have received your November 22, 2000 letter to Richland County Chair Kit Smith regarding FEMA's appeals resolution process for the Congaree River flood insurance rate mapping. In your letter, you announce that FEMA has agreed to consider Columbia Venture, L.L.C. ("CV") as an "appellant" in the ongoing appeal resolution process. Your letter was written in response to an October 26, 2000 letter from CV requesting that it be so recognized.

FEMA's regulations provide that an appeal may be filed by (1) any owner or lessee of real property within a community where a proposed flood elevation determination has been made (2) who believes his property rights to be adversely affected by the Administrator's proposed determination, if (3) a written appeal is filed with the CEO within ninety days of the second newspaper publication of the Administrator's proposed determination 44 C.F.R. § 67.5 (a).

The October 26, 2000 letter submitted by CV would not appear to meet these requirements. First, the letter is not identified as an "appeal," nor is it directed to the appropriate CEO – it simply requests that CV be given "appellant" status, presumably to provide it with standing to sue FEMA under 44 C.F.R. § 67.12. Second, the letter does not specify how CV's property rights would be adversely affected by the proposed determination. Indeed, it is our understanding that CV intends to pursue the Green Diamond development regardless of which FEMA map is finalized. Third, the letter does not state that an appeal has been filed within 90 days of the second newspaper publication of the Administrator's proposed determination. The 90 day appeal period for the second newspaper publication of the proposed determination (made in August 1999) terminated

in December, 1999. The regulations do not provide for the filing of new administrative appeals after the specified 90 day period has run.

As you know, [REDACTED] wrote FEMA this September to confirm with the agency that he filed a timely appeal on December 13, 1999. As recounted in [REDACTED] letter, the materials he filed in December of 1999 met all of the legal requirements of an "appeal." We are writing on behalf of [REDACTED] to request that you confirm, in writing, that the appeal was received and that the information submitted therewith is being considered. [REDACTED] wishes to be kept apprised of the status of the appeal resolution and welcomes the opportunity to submit more information by January 2, 2001. Should you conclude that the materials submitted last December did not comprise an appeal, we respectfully request that you provide any supporting rationale for that decision.

Thank you for your attention to this matter of utmost importance to the citizens of Richland and Lexington Counties.

Very truly yours,

[REDACTED]
Staff Attorney

cc: [REDACTED]