

Ros–Lehtinen seeks enclosure answers from FEMA

By Steve Estes

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County officials hope to meet with representatives of the Federal Emergency Management Agency sometime this month to get that agency's opinion of the amended downstairs enclosure inspection program being proposed by Monroe County.

The county is currently under a mandatory inspection program for downstairs enclosures designed to bring non-conforming structures built below base flood elevation into compliance with FEMA guidelines.

Under those guidelines, below base flood enclosures cannot be used for habitable space just for limited storage or parking of vehicles.

Over the course of about 30 years, however, Monroe County essentially turned a blind eye to downstairs enclosures, resulting in a multitude of uses for the structures that weren't approved by FEMA.

FEMA is the administrator of the National Flood Insurance Program. Flood insurance is required by most lenders in Monroe County as part of a home loan approval and FEMA had threatened to throw the county out of the program for its lackadaisical enforcement of downstairs enclosures. Under the NFIP, property owners can purchase subsidized flood insurance. Without the subsidies, policies could be double or triple what they are today on many flood-prone properties. Monroe County also must be a participating member of NFIP to qualify for many federal grant and subsidy programs.

In 2002, the county implemented a tougher flood plain management ordinance as the result of FEMA mandate.

Over the last two years, however, local residents have begun to complain that the ordinance is Draconian in nature and unfairly enforced, prompting county officials to propose the current amendment.

Under the proposal, existing non-conforming downstairs enclosures would be granted limited amnesty if the property owner submits to a voluntary inspection and pays a special use permit fee yearly for the right to keep the enclosure in its present form until it's destroyed at least 50 percent by natural means or otherwise.

The grass roots group Citizens Not Serfs has led the charge to overhaul the flood plain management ordinance over the last two years, but officials there are now not so sure they want to support the county's newest proposal.

Citizens Not Serfs got a show of support last month for their position from Ileana Ros-Lehtinen, the US Representative for the Keys.

Ros-Lehtinen sent a letter to FEMA Administrator Craig Fugate asking him to supply answers to questions CNS has about the flood plain ordinance.

"I write to you once again on behalf of many of my constituents in Monroe County," that participate in NFIP, wrote Ros-Lehtinen.

Because of the conflict between FEMA and Monroe County, she said that many homeowners are being denied this mandatory flood coverage.

Ros-Lehtinen asked Fugate to answer two basic questions for her as a result of urging by CNS.

"Is FEMA's pilot inspection program, as implemented by Monroe County, still necessary since...a majority of structures have been inspected and are in compliance.

"Could you clarify exactly what FEMA requires Monroe County to accomplish before it could consider in compliance and treated like all other floodplain management districts?"

Ros-Lehtinen said the current problems result from poor oversight by Monroe County and FEMA and now is forcing residents to pay the costs of destroying the non-conforming structures.

"This would be unjust, unreasonable and impractical," she wrote.

Ros-Lehtinen wrote that the current inspection program has had "significant negative economic and social impacts on the Florida Keys. Many of these consequences have disproportionately

affected the elderly, disabled and low and middle income in our community. Families without the means to bring their enclosures into compliance have been forced out of their communities or sold their homes at a loss an affordable housing, always in short supply, is even scarcer.”

Ros-Lehtinen also asked FEMA to recognize that many homeowners built their enclosures relying on the rules in place at the time, but have been forced to pay to modify them under rules adopted later and “use discretion in implementing any ongoing or new requirements.”

Citizens Not Serfs officials have made no secret that they feel the county’s current proposal for limited amnesty is simply a way to continue to eradicate downstairs enclosures throughout the county.

“This letter will be a positive thing for Monroe County,” said Christen Spake, legal intern for CNS. “These are two very important questions to ask.”

Spake said the organization feels that Monroe County is now substantially in compliance with FEMA mandates and will remain that way as elected leaders have promised to pay more attention to the issue in the future and not allow lax enforcement of the rules to plague the community again.

“What does FEMA want from us?” asked Spake.

The ultimate goal of CNS is to have Monroe County treated like every other flood plain community in the country and they don’t feel as though the new program allows that.

The newest proposal would, according to county officials, eventually eradicate non-conforming downstairs enclosures

But what it does is give people some breathing room who might be facing the specter of dishing out thousands to demolish an already existing enclosure to maintain flood insurance.

County Mayor George Neugent has said he believes the county’s proposal has a chance of getting positive response from FEMA.

“The more I delve into this, the more excited I am that we have come up with something that addresses the needs of everyone,” he said.

Even though officials estimate there may be as many as 7,000 enclosures in the county, they are concerned only with the ones that don't have habitable living space. Living space below base flood is prohibited by FEMA. That also leaves tens of thousands of homes in the county that don't have enclosures, but still need flood insurance and the services provided by federal monies that the county receives because it is a member of the NFIP.

Neugent also doesn't necessarily agree that Ros-Lehtinen's interjection into the issue right now is all that beneficial for county residents.

"Within the correspondence is contained information I know and believe to be incorrect," wrote Neugent.

"We have been working in a pro-active and positive way (with FEMA) on a modification to our ongoing inspection plan," wrote Neugent.

He wrote that the county understands FEMA's position and wants to work as a partner in limiting potential liability from flooding.

It has been FEMA's contention that downstairs enclosures are more prone to damage during flood events, and more costly to the federal taxpayer to clean up after a storm event.

The inspection program was designed to alleviate those issues.

County officials thought, however, that parts of the inspection program had become onerous, particularly the section requiring flood plain inspections prior to pulling building permits for even emergent repairs.

The new proposal would eliminate that requirement, as well as the flood insurance renewal inspection and replace it with an inspection on sale. If the structure is compliant, the deal goes through. If not, someone must bring it into compliance or pay the special use permit yearly to keep it until its substantially destroyed.

"In no way does the sitting board of county commissioners believe FEMA exhibits culpability in any way of its management of the flood plain ordinance. We believe we are treated like all other flood plain management districts," wrote Neugent.

CNS founder Phil Shannon has been very vocal in recent months about his belief that Monroe County isn't treated like other communities because none of them, he says, have a mandatory inspection program of areas below base flood.

County officials are awaiting some official word from FEMA concerning the new inspection proposal, and Neugent says are hopeful they can sit down together in the near future to hash out some details acceptable to both entities.