



Flood Compensation for Mayde Creek Residents

Statute of Limitations to Join Lawsuit Approaches

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In 2019, the Court of Federal Claims found that the **federal government was liable** to some homeowners who live upstream of the Addicks and Barkers Reservoirs for “**taking**” **their property** and using it as a permanent flow easement during Hurricane Harvey - **without providing them with “just compensation”** for that easement.

In November of 2022, the Court determined what “just compensation” is for the “test cases” in the 2019 lawsuit – collectively awarding them over \$500,000 with interest. Compensation to damaged property owners is a **one-time** payment for obtaining a **permanent** flow easement.

The compensation ruling awarded any decrease in real estate market value, structural damages, personal property loss, the costs of being displaced during the flood event, and loss of rental income. Personal suffering, impairment of employment access, and recovery expenses reimbursed by personal insurance, FEMA, grants, and private donations were not included.

Many of the residents of the Mayde Creek subdivision who were not part of the original lawsuit **are eligible to file a claim before the statute of limitations passes**. Residents must have owned their properties at the time of the Harvey event. During Hurricane Harvey, the flood pool water level reached an elevation of 109.1 feet for Addicks Reservoir and 101.6 feet for Barker Reservoir. According to the Court ruling, that is the elevation of the easement taken by the Government. When the Federal Government purchased land for the two reservoirs, it did not acquire property to the reservoirs’ highest design pool levels. A “fringe” of land then consisting mostly of undeveloped prairie and pasture was left unpurchased, and was later developed for homes and commercial use.

For those upstream property owners that were not part of the original lawsuit, they **must file a claim before the statute of limitations passes - or by August 2023**. In order for these claims to be vetted by August, upstream property owners are strongly encouraged to file well by **June 2023 or earlier**. Plaintiffs’ attorneys believe there are about 10,000 residents that are eligible to file a claim, **but only about half that number have signed up**.

The Federal Claims Court rulings list the following “**Co-Lead Counsel for Upstream Plaintiffs**”: Charles Irvine (*Irvine & Connor PLLC*) and Daniel Charest and Larry Vincent (*Burns Charest LLP*) and Edwin Armistead Easterby (*William Hart Boundas Easterby, P.C.*). The Federal Claims Court rulings also list “**With them at trial were**”: Vuk Vujasinovic (*VB Attorneys, PLLC*), Lawrence Dunbar (*Dunbar Harder PLLC*), and Amanda Klevorn (*Burns Charest LLP*).

Those residents who sign up will have substantial time (maybe years) to provide loss documentation to a case manager assigned by the plaintiff’s attorney. Losses to real estate property can include structural damage to the house, garage, and driveway (cracks due to settling). Losses to personal property can include damages to automobiles, appliances, clothes, food, and furniture.

In early 2023, the **federal government appealed the Court's ruling**. The plaintiffs have cross-appealed, with the hope of gaining a better position in the "just compensation" calculations. The appeals process could take another 1-1/2 to 2 years before compensation is awarded.

Despite the appeal, however, the statute of limitations for filing a claim is unchanged. If you have not filed a claim by August 2023 (preferably earlier, to allow your claim to be vetted), then **there will be no additional opportunities** to do so.

Best regards,

Dave Romero, President
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Mayde Creek Community Association, Inc.

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