Wet Floodproofed Ag & Accessory Structures and … Elevation Certificates?

By Rebecca Quinn, CFM

FEMA published Floodplain Management Bulletin P-2140, *Floodplain Management Requirements for Agricultural Structures and Accessory Structures* to follow up the policy issued late February. [By the way, skip the policy and focus on the bulletin.] That's prompted quite a few people to ask me about whether communities should require Elevation Certificates when they approve wet floodproofed ag and accessory structures. To be specific, those asking work for communities that participate in the NFIP Community Rating System. Why the question? From what I hear, if CRS communities comply with the specific requirements and limits of the policy and bulletin, and if they collect ECs for wet floodproofed ag and accessory structures, more than likely they'll get dinged by CRS for not enforcing freeboard. Why? Because the ECs will show floors below the BFE.

Here's my question: why would you collect an EC for a non-elevated, wet floodproofed structure? The reason we require ECs for elevated buildings is to verify compliance in flood zones with BFEs. You can't just eyeball an elevated building and tell if it is elevated to the correct height above datum. Sure, the EC collects other information that's valuable, like enclosure size and flood openings, but its primary benefit is to have a licensed professional shoot the floor elevation. With that in hand, local officials can determine compliance. The EC has a separate section for unnumbered A zones, which can be filled out by anyone because what is checked is height above grade, which means a surveyor is not required.

If your community follows the guidance (ideally after adopting requirements) and approves a variance for a wet floodproofed agricultural structure, or if you issue a permit for a wet floodproofed accessory structure, you don't need the floor surveyed to confirm compliance. It's approved to be below BFE and if it's on or close to grade, so of course the floor is below BFE. You might want the contractor or owner to fill in the information for flood openings so you can field verify, but that doesn't require a licensed surveyor. Someone asked me about elevated equipment. Well, I'd probably be satisfied to have the contractor or owner report the height of the equipment above grade.

I understand the purpose of CRS is to credit activities that exceed the NFIP minimums. However, I consider the detailed limits specified in the policy and bulletin do actually exceed the minimums, which appear in the 1993 edition of Technical Bulletin 7, *Wet Floodproofing Requirements*.

I encourage all communities to adopt and administer specific requirements for wet floodproof accessory structures to make the limitations clear to everyone. Plus, how else can you fairly and uniformly enforce the requirement? Many fewer communities might consider adopting the variance criteria for wet floodproofed agricultural structures, but my advice is the same for those that have significant agricultural lands in floodplains. But what I'm hearing is some CRS communities, afraid of getting dinged, might decide to skip adoption. That would be an unfortunate outcome. While I hope CRS will reconsider and not penalize communities that do get ECs on wet floodproofed structures, at least we have the option of not collecting surveyed elevation data at all.

Detached garages, attached garages, and enclosures used for parking

This topic was in part prompted by discussion of the CRS Class 8 Prerequisite for communities to require residential structures to be elevated to at least BFE plus one foot of freeboard. The question is whether flood openings are required when the floor of an enclosure or attached garage is at or above the BFE, but below the BFE plus freeboard. I was surprised by how much discussion this generated, given the scenario only occurs in areas where the BFE isn't very high above the ground.

I often point out the importance of terms and definitions. Here's my take on these terms – from a compliance

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perspective, NOT insurance. As I often remind people, we regulate based on what's in our regulations and building codes not on what is, or is not, insured.

- **Detached garages.** A detached garage is an accessory building used for parking vehicles (and maybe some storage). "Detached" means completely separate from the primary building on the parcel of land. For floodplain management purposes, detached garages are accessory structures and may be wet floodproofed if one-story and not larger than 600 sq. ft. and meet the requirements for wet floodproofing explained in the FEMA P-2140 Bulletin noted above.
- **Attached garages.** An attached garage shares a wall with the primary building and extends horizontally from that building. Attached garages do not have living space above the area used for parking.
- **Enclosures used for parking.** This is very much a floodplain thing. Elevated buildings may have enclosures underneath provided the enclosures are constructed properly and are used solely for parking of vehicles, building access, and storage. Most people might call them garages, but for floodplain management purposes they are enclosures. I've been asked about "snout houses." What are those? Snout houses have garages mostly under a portion of the living space, with a portion protruding into the front yard. For floodplain management purposes, I consider those enclosures used for parking.

What does all that have to do with flood openings when the floor of an enclosure – or attached garage – is at or above the BFE, but below the BFE plus freeboard? I suggest you check out the illustrated guidance prepared by the Florida State Floodplain Management Office. The guidance explains that for compliance purposes, the slab or floor of an attached garage or enclosure becomes the lowest floor if the garage/enclosure does not comply with requirements for enclosures, including flood openings. Without flood openings, the building's lowest floor does not comply with the BFE plus freeboard elevation requirement. The Florida Building Code requires minimum one-foot freeboard (as to most state and local building codes, unless modified to remove the freeboard). I won't try to explain how NFIP insurance rating rules do or don't consider flood openings in attached garages.

Floodplain Manager's Notebook online

Three years ago this month ASFPM added past issues of the *Floodplain Manager's Notebook* to its online searchable library. The 2020 issues are now available. Get in touch if you don't find what you're looking for. Fair warning – ask an intriguing question and I may ask you to co-author a column!

The first Notebook column was published in January 2008. My how time flies. This is a good time to remind readers that my columns reflect my take on topics of interest. I cite FEMA publications when I can, in part to encourage you to do the same when you're looking for answers. Build your own library of go-to pubs — my last recommended reading list in the July 2019 *Insider* is a good start. And remember, local officials can in touch with NFIP state coordinators who, when necessary, can check with floodplain management specialists in the FEMA Regional Offices.

Submit your own items or suggestions for future topics to column editor Rebecca Quinn, CFM, at rcquinn@earthlink.net. Comments welcomed! Explore back issues of the Floodplain Manager's Notebook.

Avoiding Valuation Bias and Inequity

By Ray Carroll, MAI, SRA, CFM

Lately I'm seeing more articles written about the growing sensitivity to inequity built into our civic systems and our social fabric. There's nothing new about this discussion, and a growing awareness of subtle, systemic bias is a good sign.

In October 2020, the Appraisal Institute, the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, and the Massachusetts Board of Real Estate Appraisers joined forces to support development of training to address unconscious bias in valuation. That training is now available to appraisers nationwide.

The February 2021 *News & Views* published by ASFPM reported that "FEMA's national advisory council acknowledged that government disaster aid does not target those in greatest need of help and in fact exacerbates inequity by enriching affluent areas and shortchanging low-income and minority communities."

Definitions

Valuation: In Merriam-Webster online, the first definition for valuation is "the act or process of valuing; specifically: appraisal of property."

Bias: The Uniform Standards of Professional Appraisal Practice (USPAP) defines bias as "a preference or inclination that precludes an appraiser's impartiality, independence, or objectivity in an assignment."

What can a floodplain administrator do to reduce inequity and valuation bias as related to disaster preparedness, disaster relief, and everyday floodplain management? And what does this have to do with estimating "market value" used to make substantial improvement and substantial damage determinations (sometimes call the "NFIP market value")?

- Recognize that some of the people most at risk from flooding are tenants living in non-conforming, entry-level housing. When that kind of housing is being repaired or renovated, local officials must insist on building permits and code compliance, even if it means that sub-standard housing must be demolished and rebuilt. Improving the quality and safety of non-conforming homes will make it easier and cheaper for families to recover after flood events. It may also save lives during major disasters.
- Demonstrate leadership by encouraging elected officials to create programs to demolish or relocate homes out of dangerous floodways, even if it means a commitment to public acquisition. There are plenty of good public uses appropriate to floodways, but housing is not one of them.
- Look at the pattern of improvement and repair permit activity in your community. If you have property owners in entry-level neighborhoods that aren't taking advantage of Actual Cash Value method to determine the NFIP market value, some valuation bias is probably at play. In most cases, using ACV results in a building value that is higher than the value determined by the adjusted assessment method (see the major drawbacks of adjusted assessment method discussed in the September 2020 *Insider*, Floodplain Manager's Notebook/Market Value Supplement).
- Examine your handout materials, presentations, and your community website to see if you're communicating in layman's terms to all audiences. When you describe your community's responsibility to enforce SI/SD requirements, be sure to offer easy-to-understand guidance and recommend the using ACV to develop market values. Floodplain administrators are so familiar with the jargon of what they do, they sometimes forget it can sound like gibberish. (Appraisers can be guilty of the same thing!) Poor communication undermines trust.

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What about the possibility of valuation bias creeping into the appraisal reports submitted for SI/SD purposes? I'm talking about all forms of bias, including overstating and understating values. The examples of bias used in appraiser training usually outline situations where an appraiser colludes with a borrower to defraud the lender by overstating value, or where the appraiser colludes with a lender to discriminate against a neighborhood where the lender doesn't want to make loans.

Conventional market value appraisals always depend on conclusions drawn from analysis of neighborhood economic and demographic characteristics. Those conclusions influence the selection of comparable sales, the development of adjustments, the calculation of depreciation, and the appraisal results. Appraisal methods that require economic/demographic analysis are open to biased conclusions, whether deliberate or unconscious.

Here's the problem. It looks like more than 90 percent of the independent appraisals received by floodplain administrators are traditional market value estimates based on sale comparables that are selected and adjusted after analysis of neighborhood economics and demographics. That kind of appraisal is open to bias and can also lead into the problems associated with use and occupancy that I wrote about in the November 2020 *Insider*, Floodplain Manager's Notebook/Market Value Supplement.

To reduce the possibility of valuation bias in the appraisal reports, why not craft your floodplain management ordinance to remove the traditional market value appraisals altogether, in favor of Actual Cash Value? This can be achieved by defining Market Value to mean Actual Cash Value (ACV) determined by a qualified independent appraiser or to the results of the Adjusted Assessment Method. FEMA's SI/SD Desk Reference (P-758) describes ACV as the cost to replace a building on the same parcel with a new building of like-kind and quality, minus depreciation due to age, use, and neglect.

The argument has already been made that ACV is superior to other appraisal methods. Patricia Staebler, SRA, wrote about this in the Fall 2017 *The Appraisal Journal* article, "The 50% Rule FEMA Appraisal," and co-authored the May 2019 *Insider* Floodplain Manager's Notebook column on this topic.

This much is true of ACV:

- ACV is conceptually simple and easy to understand.
- ACV appraisal reports are the easiest to read and review.
- ACV works for all buildings, while other methods don't.
- ACV completely avoids forbidden value associated with use and occupancy.
- ACV usually results in a better outcome for building owners.
- And, importantly, using specialized valuation tools already available, ACV appraisal reports offer little opportunity for valuation bias.

In the next Market Value Supplement, I'll share more about some of the tools available to appraisers who make ACV valuations.

Short-term Response to Flooding: A Guide for Communities and Local Government

The Tennessee Department of Environment and Conservation (TDEC) created a guide for officials and community members to provide information in the hours, days, and weeks following a flood event.

Although developed for Tennessee officials, it offers a lot of helpful advice that could be adapted by other states looking for a quick reference for answers to questions that may arise immediately following a flood event.

It's available for download from the ASFPM library.