



By Rebecca Quinn, CFM

Notes on Who Determines Compliance, Swimming Pools, and a Follow Up on Manufactured Homes

Who Determines Whether a Community's Floodplain Regulations Comply with the NFIP?

Why the question? Because I keep running into communities that think the specialists who work for the FEMA Community Rating System (CRS) contractor make that decision. That is not correct. The CRS Coordinators Manual states the "Regional Office of the Federal Emergency Management Agency (FEMA) must approve the submittal to ensure that the community is in full compliance with the minimum floodplain management criteria of the NFIP" (see Section 114.a. Community Participation).

The CRS specialists perform "cycle verification visits" periodically. The primary focus during those visits is determining whether communities are fully implementing the activities that receive CRS credit. When it comes to CRS credits for regulations, that means the focus is on regulations that **exceed** the NFIP minimums.

Let's look at some specific times when FEMA reviews ordinances for compliance:

- The first time a community's regulations are reviewed by FEMA is before the community is accepted in the NFIP. For many communities, that was decades ago (the first communities in the program joined in the late 1960s).
- For CRS communities, FEMA does another compliance review before initial acceptance in the CRS, and that might have been done 20 or 30 years ago (dozens of Florida's communities joined the CRS in the early 1990s).
- FEMA might review an ordinance for a number of other reasons, such as part of a Community Assistance Visit or when resolving problems with non-compliant development.
- FEMA is also required to do a compliance review when Flood Insurance Studies and Flood Insurance Rate Maps are revised and republished. We know many communities have not had their FISs and FIRMs revised in many years, which means those products may be decades old and thus this additional compliance review hasn't been done in decades.

Many NFIP state coordinating offices also review local floodplain management ordinances, especially when communities propose amendments. Those offices are designated by governors to be the go-between, coordinating with communities to satisfy the NFIP requirements (and many other actions).

Now, back to what prompted my question. I've reviewed hundreds of local ordinances during my floodplain management career, and it's not unusual to find noncompliance. Some noncompliance simply wasn't caught by FEMA reviewers many years ago. But a lot of problems I see were created because all too often communities don't request a review by the state coordinator (or FEMA) before they modify regulations. Unfortunately, that can result in changes that get crosswise with the NFIP. In my opinion, local floodplain administrators should always request the state's review of proposed changes well in advance of starting the formal adoption process. State Coordinators usually have seen many types of amendments, which means they know how to write amendments to maintain compliance with the NFIP.

So, strange as it may seem, a CRS community that passes its CRS verification visit with flying colors does not necessarily have a fully compliant ordinance. Only FEMA and state coordinators do those basic compliance reviews, not CRS specialists. And yes, I can vouch that some CRS communities that have been in the program for decades do not have compliant ordinances. If that happens in your community, please remember the state coordinator really is "from the government and here to help you!"

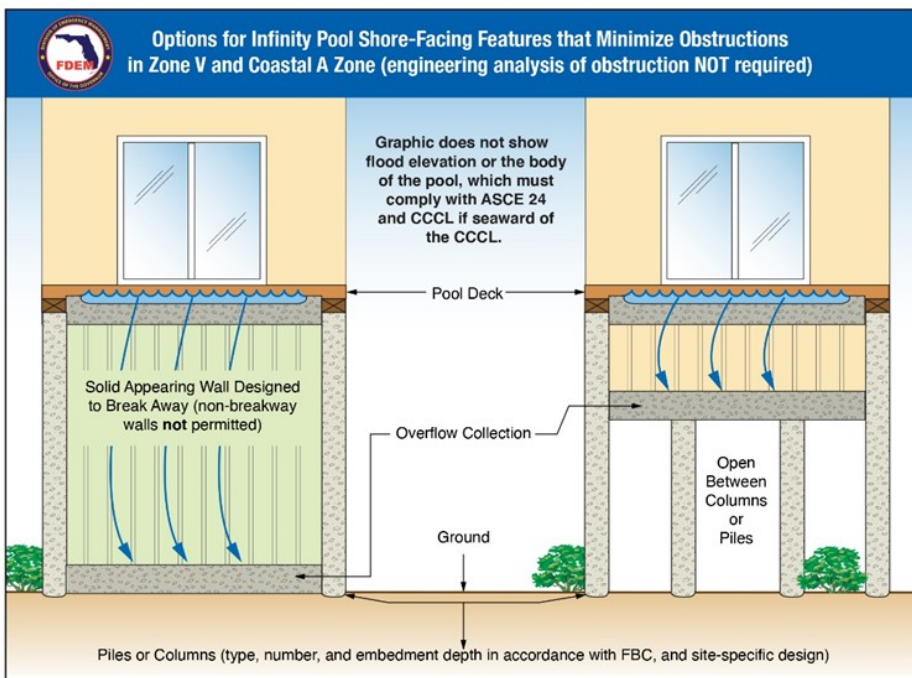
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Swimming Pools

When I wrote about swimming pools in the July 2020 Notebook, I noted that complete guidance for pools would take more pages than I could include in that issue. Then I proceeded to offer a page and a half to touch on requirements based on flood zone, equipment serving pools, pool enclosures, and infinity pools. When it came to infinity pools in coastal high hazard areas (Zone V), I ran out of room, but left you with some things to think about when reviewing pools with those features.

Last year Florida finalized some guidance on regulating pools in floodplains, with a separate section on infinity pools with solid appearing vertical walls (or wall sections) facing the water. Just like breakaway walls enclosing areas under elevated buildings, swimming pools and features associated with pools must pass the “free of obstruction” test. Florida’s guidance illustrates some alternatives. [Go here](#) and look in the Guidance section for the link for swimming pools.



Follow Up About Manufactured Homes and Modular Homes

In the November 2021 Notebook, I described manufactured homes and modular homes. A local official in a Tennessee community got in touch with a question. She asked about single- and double-wide trailers/mobile homes vs manufactured vs modular. She noted that they’re all built in factories, and asked what is the key difference and how can they tell for sure which one is proposed before a unit is delivered? Is the right question whether the structure has a permanent chassis?

I emailed back, noting that her question isn’t specifically about floodplains and I referred her to the state agency that regulates these types of structures and licenses installers. People use “trailer” and “single/double wide” and “mobile home” all to refer to the same thing — manufactured home. By HUD regulations, these units have a “permanent integral chassis” supporting the floor system (beams, joists, and floor)—chassis means wheels can be attached. Sometimes the wheels are removed after installation on the site. The unit is then installed on a foundation or supports. So yes, in my opinion, asking whether a proposed unit has a permanent chassis would let you know if it’s a manufactured home, regardless of what someone calls it.

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](#).

2022 State Climate Summaries Now Available

Get climate information on your state with the new NOAA State Climate Summaries. The summaries for 2022 cover historical climate variations and trends, future climate model projections of climate conditions during the 21st century, and past and future conditions of sea level and coastal flooding. Additional background information and links are included. Go to statesummaries.ncics.org/

By Ray Carroll, MAI, SRA, CFM

Real World Questions & Answers

This month, I'll illustrate how the topics we've covered in the MV Supplement since September 2020 apply to real-world situations. Based on questions I've fielded as a licensed appraiser in Florida, I'll offer some suggestions about how to better communicate what you know. There are no stupid questions, and rarely are there short answers.

Download and review the "Local Official ACV Appraisal Checklist" (link in sidebar). I think you'll find it's helpful for you and appraisers who work in your community. At the end of some of the suggested answers below I note which *Insider* edition has a Market Value Supplement pertinent to the question.

Questions Appraisers Might Ask, and How Floodplain Managers Might Answer

Q: *A client assigned me to make a "FEMA appraisal." What should I do?*

A: It's really only the building value we want, which is called "market value" by FEMA and in our floodplain regulations. There are a couple ways that can be estimated. My suggestion is that you estimate the building's Actual Cash Value. I'll send a checklist we use to evaluate ACV appraisal reports, a copy of an article published in *The Appraisal Journal* explaining ACV, and a link to the FEMA SI/SD Desk Reference. Section 4.5.3 in the Desk Reference is helpful. (See the January 2022 *Insider* MV Supplement on reviewing appraisals.)

Q: *When I got to the building to make my inspection there was a "Stop Work" order on the door and the interior was gutted. What should I do?*

A: That's a good question. The appraisal effective date must be prior to damage or prior to the start of work (in this case, the gutting of the interior), so you'll have to document the building condition and finishes on the effective date sufficiently for me to rely on your appraisal report. Try to obtain photographs taken before it was gutted and correlate them with your inspection photos. If that's not possible, then maybe it's not possible to make a reliable appraisal. Ask your client to give me a call and I'll explain how we can use the county tax assessment to satisfy our requirement. (See the September 2021 *Insider*.)

Q: *I've been asked to make a FEMA appraisal of an old, non-conforming beachfront building. There just aren't any good comparable sales. The income approach seems to work. What should I do?*

A: This is one of those situations when Actual Cash Value is the only way to go. FEMA guidance clearly doesn't allow the income approach, and the FEMA SI/SD Desk Reference, my primary guidance document, makes it clear that an appraisal must not include any value associated with use or occupancy. That's difficult to do in a traditional whole-property market value appraisal for a property of this type. Let me send you the checklist we use to evaluate ACV appraisal reports, a copy of an article published in *The Appraisal Journal* explaining ACV, and a link to the FEMA SI/SD Desk Reference. Section 4.5.3 in the D Reference is helpful. (See the November 2020 *Insider*.)

Q: *Good morning. I called last week about an appraisal I'm supposed to make for the house at 1214 Donna*

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Market Value Resources for Floodplain Administrators and Appraisers.

I've gathered and posted some handy resources here: [50-Percent Rule Appraisal Assignments - Carroll And Carroll](#). Look for the "Local Official ACV Appraisal Checklist" based on the latest edition of the Uniform Standards of Professional Appraisal Practice (USPAP).

Refer appraisers to the article "The 50% FEMA Rule Appraisal" published in *The Appraisal Journal*. Some of the Market Value Supplements are also useful for appraisers.

Find all of the Floodplain Manager's Notebook Market Value Supplements in back issues of the [Floodplain Manager's Notebook](#).

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Street. I read the information you sent, but I can't find the definition of market value I need to cite in my report. Can you point me to the right definition?

A: Hi, good to hear from you again! It's really our local floodplain management ordinance that drives your appraisal assignment. Look in the "Definitions" section for the definition of market value. I think your best results will be to make an Actual Cash Value appraisal. ACV is an appraisal option identified in our definition and in FEMA's SI/SD Desk Reference that's a resource we use to administer our ordinance. I'll send you a link to that document so you can check out Section 4.5.3. I'll also send the appraisal checklist we use to evaluate ACV appraisal reports and some other materials. (See the September 2021 *Insider* FPM Notebook for a definition.)

Q: *I want to talk to someone responsible. I got a call from my client, the contractor, informing me that you won't accept the appraisal report I prepared for the house at 807 Riverside Drive. What's going on here?*

A: Oh, hi Shirley, it's no problem, really. Your report was well prepared and otherwise acceptable, but the city's building department or floodplain administrator must be identified as an intended user of the appraisal report. That's what I wanted to say when I left you a message, but I was told that you couldn't discuss the appraisal with me. You see, the intended use of the appraisal is for me, the city's floodplain administrator, to make an informed determination about whether the work proposed in the permit application is "substantial improvement," a defined term. I must be able to rely on the appraisal report and I know we can't legally do that unless this office is identified as an intended user. Can you revise the report to list us?

Q: *Hello, are you the one responsible for rejecting my appraisal of the convenience store at 1812 Center Street? The property owner forwarded me the email you sent with your checklist, a magazine article and other stuff. I don't know about all that, but I'm the appraiser and you have no business rejecting my work!*

A: Yes, I remember the application. What I need is an appraisal that reports the value of just the building, which is called "market value" by FEMA and in our floodplain regulations. The best way to do that is to estimate Actual Cash Value. The things I sent to your client were to help him understand what is required. The appraisal report he submitted was a whole-property market value appraisal that included the value of the land, the building value, and the value of the other site improvements. For us to use that appraisal report the land value will have to be appraised and deducted, as will the contribution value of the other improvements. We must make our permit decision using only the building value, so the 25% developer profit that's in the value estimate must come out, too. I'm sorry this happened. We try to get information out to all applicants about what is required in a 50-percent rule appraisal, but the first we heard about this application was when it was delivered with the appraisal report. Is there something else I can send you that will help you revise the report? We also accept estimates using the ACV method.

Questions a Property Owner Might Ask, and How Floodplain Managers Might Answer

Q: *Hi, this is George Tyler. I just got your voice message saying the appraisal we submitted with the permit application for our condo is not acceptable. Why is that?*

A: Thanks for calling back, Mr. Tyler. The appraisal report you submitted was prepared for mortgage loan underwriting purposes. The intended use stated in that report is not correct for our purpose. Also, our office is not identified as an intended user of that report. More importantly, the appraisal is for an individual condominium unit. What we need is an appraisal of the entire condo building. Also, for this type of building the appraisal needs to determine the building's Actual Case Value. Let me send you some materials to share with your appraiser. I'll be glad to talk to the appraiser if she has questions. (See the January 2021 *Insider* MV Supplement on condos.)

Q: *Hi, we're planning a major renovation. We were told we have to get another appraisal to go with the building permit. The appraiser I called tells me she will appraise our house as it is today, and that the improvements we want to make can't be included in the value. We just paid to have the house appraised to get financing for the renovations and that appraisal is based on our proposed improvements. Shouldn't this appraiser do the same thing?*

A: Hi, you and your appraiser are both correct, but you're talking about appraisals made for different purposes. It sounds like your first appraisal was for mortgage loan underwriting. The appraisal we need for the building permit is for the building in its current condition, and only the building. We have to compare the

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costs of your proposed improvements to the value estimated in that appraisal. The results might require you to do some additional work. It sounds like your appraiser knows what to do. Just in case, I'll send you the appraisal checklist we use. Feel free to share the checklist with your appraiser.

Q: *I got a deal on this house because it was storm damaged and the seller didn't want to make repairs. Costs were so high after the storm, and I've been busy, so now (four years later) I'm ready to make repairs. I can't find an appraiser who will take the assignment to determine the "market" value you require for the building permit. They all ask for pictures of the building, inside and outside, before the storm, but I don't have any pictures. What should I do?*

A: It sounds like the appraisers know that they might be able to appraise the building as it was before damage occurred, but not without documentation of the condition and finishes before damage. If the storm damage was four years ago and nothing has been done since, I wonder what condition the building is in now? Sometime unrepaired buildings deteriorate a lot over just a few years. You might have to ask for an appraisal of the building in its current condition, but unrepaired damage will count as deferred maintenance, and the additional depreciation will lower the value. We can also use the ad valorem (tax) building assessment for the year before the storm. Have you thought about lifting the house up so the floor is above the required elevation? If you do that, you don't need an appraisal. Why don't you come by and we can talk about your options. (See the September 2021 *Insider* about market value dates and the September 2020 *Insider* MV Supplement about the adjusted tax assessment method.)

Q: What is wrong with you people down there? This floodplain stuff I've heard about doesn't make sense! It's my property. I should be able to do anything I want with it!!

A: Well, hello, sir. Are you new to our area? Many years ago our community passed a floodplain management ordinance that adopted the flood maps and minimum standards for new construction and for how repairs or improvements to existing buildings could be made. The maps are prepared by the Federal Emergency Management Agency (FEMA) and the minimum rules are established by the National Flood Insurance Program. The rules mean homes are built better and don't get damaged by flooding like we used to experience. The 50-percent rule you've heard about applies to buildings that don't conform to current requirements. The rule is a compromise between private property rights and the public interest. I'm your local official responsible for implementing the permitting program to protect public safety and reduce future flood losses. All that's required is to comply with the requirements. Now, let's see how I can help.

Answers an Appraiser Might Give When a Floodplain Administrator has Questions About Appraisal Reports

Q: *Hello, Ray, it's Susan with the city. How can the value of this building be so high? Hmm, let's try again. Hey, Ray, I'm working through the appraisal report you prepared for 1838 Center Street, filling out my checklist as I go. Can you tell me where to look to find support for the building reproduction cost?*

A: Hi, Susan, yes. Look at the report table of contents and find the section Programmed Cost Estimate. That section identifies the cost estimating system I used, how the system works, and what adjustments were made. Following the introduction is a detailed cost report of several pages. Look at that section of the report and call back if you still have questions.

Note for Floodplain Administrators: You will always get better results if your request for clarification is oriented to the assignment conditions, pertinent facts, appraisal methods, and the report documentation rather than just asking about the value estimate. The value estimate is always the consequence of application of appraisal methods to the facts and assignment conditions. See the November 2021 *Insider* MV Supplement on estimating costs for ACV and the January 2022 *Insider* MV Supplement on reviewing appraisals.

Q: *Hi, Pat, I'm working through the appraisal report for 1306 12th Avenue North, filling out my checklist as I go, and I've got a question about depreciation. Can you please explain how this 50-year-old building can be only depreciated 33 percent?*

A: Sure, look in the table of contents to find the page number corresponding to the depreciation section. First, there is a general discussion about depreciation theory and a citation from the FEMA SI/SD Desk Reference about what kind of depreciation we're supposed to apply. Next, there is a discussion about how the Physical Life Calculator tool works and how it applies to the building in question. The building needs a new roof, which is what the permit application is for. So, 33 percent is only the straight-line percentage of

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depreciation calculated using the building age and the physical life forecast. You'll see that depreciation was increased by \$35,000 to account for the neglect associated with the used-up roof cover. Total depreciation is \$150,500 or 43 percent. Note for Floodplain Administrators: The appraisal report must contain sufficient documentation to support the conclusions reached, and there are helpful tools available. See the May 2021 *Insider* MV Supplement on a physical life calculator.

Q: Hey, I'm calling from the county permit office. Your appraisal report includes the cost of in-ground concrete pilings. Should that be included?

A: Yes, the foundation is part of the building. Whether a piling foundation is visible, as stilts, or invisible underground, it is part of the building and included in the valuation. Note for Floodplain Administrators: See the November 2021 *Insider* MV Supplement on estimating costs for ACV.

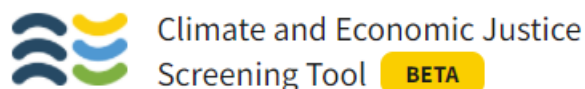
Q: I have a question about appraisal reports and hope you can help me understand something. Does the reproduction cost estimate include the architect fee?

A: It might. CoreLogic Commercial Express defaults to a setting that includes the architect fee. The user can set the system report output not to break out the architect fee, but it is always included. Not all cost systems work that way. Many systems require a separate calculation and addition of the architect fee.

When I make 50-percent rule appraisals for buildings in floodplains I set my output report to show the architect fee is included, and then I make a deduction of that fee as a cost adjustment. There has been some criticism about doing that because including the architect fee can increase the building cost by several percentage points, but if the budget submitted for the proposed work doesn't have to include the architect fee then it is logical not to include the fee in the building's market value estimate. You have a copy of the FEMA SI/SD Desk Reference, right? Take a look at Section 4.4.2 about, which lists costs to obtain or prepare plans and specifications. Perhaps this will be clarified in the next edition of the Desk Reference.

New Climate & Environmental Justice Screening Tool Released

The White House Council on Environmental Quality (CEQ) released a beta version of the [Climate and Economic Justice Screening Tool](#) (CEJST), a major step toward addressing current and historic environmental injustices. The tool was created to help agencies identify disadvantaged communities to ensure that everyone is receiving the benefits intended from federal programs.



CEQ will soon issue a Request for Information in the Federal Register soliciting feedback on the tool. You can also provide feedback directly on the CEJST website, which is an open source platform that includes the methodology and datasets being used. Once CEQ has reviewed feedback on the beta version of the CEJST and updated it as deemed necessary, federal agencies will use the tool to help identify disadvantaged communities to ensure that 40 percent of the overall benefits of federal climate, clean energy, and other key programs are reaching disadvantaged communities, as identified by the CEJST.

Meanwhile, the Environmental Protection Agency (EPA) also made an update to its [EJSCREEN tool](#), which is widely used by federal and state agencies for a broad array of screening, outreach, and analytical purposes. EJSCREEN and CEJST complement each other — the former provides a tool to screen for potential disproportionate environmental burdens and harms at the community level, while the latter defines and maps disadvantaged communities for the purpose of informing how federal agencies guide the benefits of certain programs, including through the Justice40 Initiative.