

United States Senate

WASHINGTON, DC 20510

August 5, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

Secretary Mayorkas,

I write to urge that the Department of Homeland Security review and revise FEMA regulations and procedures regarding individual assistance to disaster victims in order to ensure Black owners of heirs' property are not unjustly denied disaster relief.

I am deeply concerned that current regulations and procedures have a disproportionate negative impact on Black property owners who, due to historic discrimination, especially in the South, are at times unable to demonstrate clear title to property which they have inherited and do indeed own, and who therefore are ruled ineligible for disaster assistance that they need and should rightly receive.

As recently documented by *The Washington Post*, FEMA's regulations and procedures regarding property title have tended to have unfortunate disparate effects on Black homeowners.¹

These issues have particular importance in Georgia, South Carolina, and in the rest of the southeastern United States. According to *The Washington Post*, "more than a third of Black-owned land in the South is passed down informally, rather than through deeds and wills, according to land use experts. It's a custom that dates to the Jim Crow era, when Black people were excluded from the Southern legal system. When land is handed down like this, it becomes heirs' property, a form of ownership in which families hold property collectively, without clear title."

Guidance from FEMA states that the agency would accept the following verification documents for homeownership: a deed, title, or lease agreement; a bill of sale or land contract; a mortgage payment booklet; a property tax receipt or property tax bill; a last will and testament (along with a death certificate) naming an applicant heir to the property; or a real property structure insurance policy.² Such documentation may not be available to all owners of heirs' property.

¹ Hannah Dreier and Andrew Ba Tran, *'The real damage': Why FEMA is denying disaster aid to Black families that have lived for generations in the Deep South*, *The Washington Post* (July 11, 2021).

² *FAQ: Verifying Home Ownership in the Disaster Assistance Process*, Federal Emergency Management Agency, <https://www.fema.gov/press-release/20210318/faq-verifying-home-ownership-disaster-assistance-process> (Oct. 13, 2018).

FEMA denies requests for help from about two percent of applicants for disaster aid because of title issues. According to the same report, however, the rate is twice as high in majority-Black counties “in large part because Black people are twice as likely to pass down property informally.” More broadly, “in parts of the Deep South, FEMA has rejected up to a quarter of applicants because they can’t document ownership.”

Without this formal documentation, families and property owners can be unjustly denied funding after a disaster such as a hurricane or tornado. A 2017 report by the U.S. Department of Agriculture noted that after Hurricanes Katrina and Rita, approximately 20,000 heirs’ property owners were denied FEMA or Housing and Urban Development assistance because they could not show clear title to property.³

As risks from tropical storms, storm surge, and flooding continue to increase in Georgia, South Carolina, and the Southeast region, heirs’ property owners are, by virtue of geography, often highly vulnerable to disasters. I urge you to direct FEMA to review and revise its regulations for individual assistance to account for the fact that current documentation requirements can create impassable barriers that disproportionately impact Black property owners and disaster victims.

I thank you for your prompt attention to this serious issue.

Thank you again,



JON OSSOFF
United States Senator



TIM SCOTT
United States Senator

³ Identifying Potential Heirs Properties in the Southeastern United States, U.S. Department of Agriculture, https://www.srs.fs.usda.gov/pubs/gtr/gtr_srs225.pdf (Sept. 2017).