



April 18, 2022

Ms. Sydney Hoffman
Deputy Division Director Interagency Coordination
Fema Recovery
Department of Homeland Security
sydney.hoffman@fema.dhs.gov

VIA E-MAIL

Re: Retroactive measures to ensure equitable access to recovery funds

Dear Deputy Director:

Since The aftermath of hurricane María, Ayuda Legal Puerto Rico convenes advocacy efforts from organizations and communities to seek equitable access to recovery funds, ensure displacement minimization and promote citizen participation. On this occasion, ALPR requests FEMA to retroactively apply the clarification of norms that impact the eligibility of informal owners to the Individual Household Program.

The significant number of houses impacted by recent floods highlight the precarity of families living in Puerto Rico five years after hurricane María. The local and federal government have the responsibility to ensure that immediate assistance reaches affected households quickly and effectively. Barriers that discriminate against families are life-threatening. This is the case of families with informal titles in Puerto Rico.

In September 2021, FEMA published new guidelines that would have made it easier for María survivors to access much-needed aid, by acknowledging specific mechanisms to assist owners without formal documentation. This policy is only applicable to disasters declared on or after August 23, 2021. While we celebrate this step, those rules will not benefit Maria survivors, even though over 15,000 people still live under temporary blue tarps. FEMA has the responsibility and authority to adopt this new guideline retroactively. This development does not propose an amendment to any existing rules. It is a document that proposes a correct interpretation of the legal framework that existed prior to hurricane María.

Between 2017–2018, FEMA excluded approximately 77,000 households from the Individual and Household Program, denying them a chance to receive assistance to repair and rebuild their homes after María. In September 2017, FEMA required, as it does today, that applicants for

housing assistance be the owner-occupant of the disaster-affected home. *Owner-occupied* means that the residence is occupied by: "(1) The legal owner; (2) A person who does not hold formal title to the residence and pays no rent, but is responsible for the payment of taxes or maintenance of the residence; or (3) A person who has lifetime occupancy rights with a formal title vested in another."

FEMA incorrectly interpreted that a deed or legal document was required to apply for disaster aid, even though nothing in federal regulations instructs the agency to request a title to acknowledge that a person is an eligible owner.

Nothing in Puerto Rico's legal framework requires families to have a deed to establish their ownership. Cultural, historical, and economic reasons – some grounded on a racialized distribution of ownership– lie under the lack of formal documentation of families who have lived in their homes across generations. The high denial rates snowballed into a shocking housing crisis, framed by the neglected consequences of major hurricanes, as well as by the earthquakes of 2020 and the pandemic.

Between 2018 and 2020, Ayuda Legal Puerto Rico led advocacy efforts to make FEMA acknowledge the rights of informal owners. We researched and created a document to facilitate informal owners their right to request assistance, and FEMA acknowledged that deeds were not a requirement. Yet, the former administration refused to let turned down applicants know about this policy clarification, and many lost their chance to appeal. After several years of advocacy efforts, in September 2021, FEMA finally adopted our recommendations and ensured flexibility to promote equitable access to assistance.

Disaster survivors in Puerto Rico and in other jurisdictions who lack formal title remain devoid of the assistance they need and to which they are eligible. Studies and experience show that title requirement policies have a disparate impact on black and low-income communities. Neglected housing needs grow exponentially amidst disasters and the current precarity of homes in Puerto Rico is evidence of this phenomena. Demanding the retroactivity of this policy is a request grounded on housing, land, and racial justice. We ask FEMA to act now and ensure equitable access for disaster survivors

Equitable recovery is just recovery.

Cordially,

/s/Ariadna Godreau Aubert, Esq.
Executive Director

/s/María de Lourdes Vaello Calderón, Esq.
Community Lawyer

/s/Verónica González Rodríguez, Esq.
Community Lawyer