

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**CARL BERNOFSKY and  
SHIRLEY G. BERNOFSKY**

**versus**

**THE ROAD HOME CORPORATION,  
ICF EMERGENCY MANAGEMENT  
SERVICES, LLC, LOUISIANA RECOVERY  
AUTHORITY, and LOUISIANA DIVISION  
OF ADMINISTRATION THROUGH THE  
OFFICE OF COMMUNITY DEVELOPMENT**

*	<b>CIVIL ACTION</b>
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*	<b>NO. 09-1919</b>
*	
*	
*	<b>JUDGE STAGG</b>
*	
*	
*	<b>MAG. JUDGE HORNSBY</b>
*	

\* \* \* \* \*

**MOTION TO DISMISS**

**NOW INTO COURT**, through undersigned counsel comes Defendants, the Louisiana Recovery Authority (hereinafter "LRA") and the Louisiana Division of Administration through the Office of Community Development (hereinafter "OCD"), which move this Court to dismiss the Complaint filed by Carl and Shirley G. Bernofsky (hereinafter "Plaintiffs") pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6).

For the reasons set forth in the accompanying Memorandum in Support, Plaintiffs cannot maintain their claims against the LRA and the OCD. The LRA and the OCD are

entitled to immunity under the Eleventh Amendment to the United States Constitution; the LRA and OCD are not “persons” who can be sued under 42 U.S.C. § 1983, and the 14<sup>th</sup> Amendment standing alone does not recognize Plaintiffs’ private right of action against the LRA or the OCD. Additionally, Plaintiffs cannot maintain their claims for negligence under Louisiana law and this Court lacks any independent basis of jurisdiction over such claims.

**WHEREFORE**, Defendants, the Louisiana Recovery Authority and the Louisiana Division of Administration through the Office of Community Development, respectfully request this Court to dismiss with prejudice Plaintiffs’ Complaint against the LRA and OCD.

Respectfully submitted,

/s/ Renee Culotta

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THROUGH THE OFFICE OF COMMUNITY  
DEVELOPMENT**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 1<sup>st</sup> day of February 2010, I electronically transmitted a PDF version of this document to the Clerk of Court, using the CM/ECF System, for filing and for transmittal of a Notice of Electronic Filing upon all CM/ECF registrants.

/s/ Renee Culotta\_\_\_\_\_

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**MEMORANDUM IN SUPPORT OF MOTION TO DISMISS**

Respectfully submitted,

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## **I. INTRODUCTION**

Plaintiffs, Carl Bernofsky and Shirley G. Bernofsky ("Plaintiffs"), have sued ICF Emergency Management Services, LLC ("ICF"), the Louisiana Recovery Authority ("LRA") and the Louisiana Division of Administration through the Office of Community Development (OCD"), essentially challenging Defendants' determination that they were ineligible for The Road Home program, due to the fact that they failed to time apply for grant benefits. Plaintiffs allege both the LRA and OCD are "state agencies" of the State of Louisiana (Complaint ¶¶ 3, 4). As more fully detailed herein, Plaintiffs' claims against both LRA and OCD must be dismissed in their entirety. The LRA and the OCD are entitled to immunity under the Eleventh Amendment to the United States Constitution. Further, the Fourteenth Amendment standing alone does not recognize a private right of action against the LRA and/or the OCD. Finally, to the extent Plaintiffs' are asserting any state law claims, they should be dismissed on grounds the Court lacks any independent basis of jurisdiction over such claims. Alternatively, Plaintiffs cannot maintain a claim upon which relief can be granted for such claims.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

### **A. Plaintiffs' Claims**

On November 13, 2009, Plaintiffs filed the instant action against Defendants, The Road Home Corporation, ICF, the LRA and the OCD. Plaintiffs claim they were the owners of a home located at 6478 General Diaz Street, New Orleans, Louisiana, which was severely damaged by Hurricane Katrina on August 29, 2005. (Complaint, ¶¶ 5, 6.) On May 7, 2006, Plaintiffs registered for the Road Home Registry, a precursor to the Road Home program. (Complaint, ¶ 8.) The Road Home Registry was essentially a pre-

application program, designed to obtain “preliminary data” as a “planning tool,” *i.e.*, in an effort to determine the need for a housing assistance program in Louisiana and to use the data to obtain appropriate funding from Congress and design a compensation grant program responsive to the needs of Louisiana citizens. (See Complaint, Exhibit A. See also, The Road Home Housing Registry Closeout Report, attached as Exhibit A.) However, completing the Road Home Registry process was the “first step” in the process, but was not the same as or a substitute for filing a full and complete application to The Road Home for compensation benefits. (See Complaint, Exhibit A.)

Plaintiffs then sold their home on February 17, 2007, and were under the belief that they were ineligible for The Road Home program. (Complaint, ¶¶ 10, 11.) Therefore, Plaintiffs did not apply for The Road Home program by completing a formal application. Plaintiffs allege they later learned from newspaper reports that they were eligible to apply for and receive benefits from The Road Home program. (Complaint, ¶ 12.)

On August 1, 2008, Plaintiffs sent a letter to the Road Home describing their uncompensated losses and requesting information regarding the application procedure; however, this was after the July 31, 2007 deadline for submitting a Road Home application. (Complaint, ¶¶ 13, 23.) From August 2008 through October 15, 2009, Plaintiffs continued to contact Defendants and others on their behalf, again seeking information regarding their filing application for benefits; however, again this activity was after the formal deadline for filing an application with The Road Home. (Complaint, ¶¶ 14- 23, Exhibits F- O.)



By letter dated October 20, 2009, OCD informed Plaintiffs they were not eligible to participate in The Road Home program because they had not timely filed an application for The Road Home program. (Complaint, ¶ 23, Exhibit P.) Specifically, OCD informed Plaintiffs:

I regret to inform you that you remain ineligible for *Road Home* Program participation because you did not apply to the *Road Home* Homeowner Assistance Program prior to the July 31, 2007, application deadline. You originally submitted your information to Louisiana's Housing Registry, which was a pre-application process used to survey the disaster's impact and to estimate the amount of federal funding the State would need to fund the recovery efforts. This was not an application for the *Road Home* Program. The U.S. Department of Housing and Urban Development has directed the State that exceptions cannot be granted for individuals who failed to comply with this application deadline. The Louisiana Recovery Authority publicized the deadline, along with other relevant notices, through numerous news releases, public service announcements, and outreach events.

This determination was made in accordance with Louisiana Recovery Authority and Louisiana Office of Community Development governing rules and policies for the funding award calculation and/or program eligibility. Road Home Policies are available on the INTERNET at <http://road2la.org/homeowner/resources.htm#policies>.

(Complaint, Exhibit F.)

Despite the fact that Plaintiffs admittedly did not complete or submit a timely application for a Road Home grant, Plaintiffs essentially seek this Court to award them the funds they would have received from the Road Home program; they calculate the amount they would have received from The Road Home to be \$89,391.88. (See Complaint, ¶ 29). However, Plaintiffs' request for compensation in this lawsuit extends to losses not covered and/or excluded by The Road Home program, i.e., to loss of

contents and/or “intellectual property” contained in their home at the time of Hurricane Katrina. (Complaint, ¶ 30.)

Further, Plaintiffs claim Defendants were negligent in failing to “follow through” with their application process, ignored Plaintiffs repeated letters (from August 2008 through October 2009), and failed in their duty to assist Plaintiffs with their claims for benefits. (Complaint, ¶¶ 25, 26.) Plaintiffs also claim they were subjected to “disparate treatment” in the administration of “federal taxpayer funds” in violation of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983. (Complaint, ¶¶ 27, 28.)

#### **B. The Road Home Program**

Defendants, LRA and OCD, provide the following background information for the Court's benefit and to provide an understanding of The Road Home program and its implementation.

Following Hurricanes Katrina and Rita the Federal Government provided the State of Louisiana with \$6.2 billion dollars in Community Development Block Grants (“CDBG”) funds for disaster recovery and rebuilding efforts. A supplemental award of \$4.2 million in CDBG funds was subsequently awarded to the state through the Supplemental Appropriations Act. Louisiana then developed a plan for disbursement of the CDBG funds to property owners affected by Katrina and Rita called “The Road Home Program.”

On May 30, 2006, the U.S. Department of Housing and Urban Development (“HUD”), approved The Road Home program. As further explained below, the Federal Appropriations Act requires the OCD to strictly comply with the Action Plans and Amendments approved by HUD in administering The Road Home program. See 42

U.S.C. § 5311(a). The OCD must stay within the narrow confines of the Action Plans and Amendments in making all eligibility determinations and in its policies and procedures.

### **1. Federal Appropriations Acts**

Under the Federal Appropriations Acts, which govern the allocation, administration and use of the CDBG funds, the CDBG funds were appropriated by Congress to HUD to be used for disaster relief, long-term recovery and restoration of infrastructure. (Appropriations Acts, Exhibit B.) Once HUD allocated the funds to Louisiana, the funds were to be administered through an entity or entities designated by the Governor of each state; in Louisiana, that entity is the Louisiana Recovery Authority (LRA). (Exhibit B.) The Division of Administration (DOA) was created pursuant to La. Rev. Stat. Ann. § 39:1, *et seq.* DOA's function is to carry out "all administrative functions of the state," and the DOA is charged with the administration of CDBG programs in general. See La. Rev. Stat. Ann. §§ 39:4; 49:663.1. The OCD is an office within the DOA, and is authorized to administer The Road Home Program. La. Rev. Stat. Ann. § 40:600.62(2).

Importantly, the Federal Appropriations Acts do not allocate any fixed amount to any individuals or property owners. (Exhibit B.) In fact, the Federal Appropriations Acts do not even direct Louisiana to use the funds toward payments to property owners. (Exhibit B.) Instead, the Acts simply require allocations to be used for long-term recovery and restoration of infrastructure. (Exhibit B.) The state determines the proposed use of the CDBG funds and criteria for eligibility. (Exhibit B.) The Federal Appropriations Acts entrust the administration of the CDBG funds to Louisiana and

Louisiana has considerable discretion and authority to determine the proposed use of the funds and to fashion the most prudent means of disbursing the funds. Indeed, Louisiana law also similarly vests the State with the discretion and authority to prudently administer the funds. See La. Rev. Stat. Ann. § 49:220.1 *et seq.* The State has inherent discretion necessary to administer the CDBG funds and is not restricted by applicable statutes or regulations.

## **2. Action Plans and Amendments**

Prior to the obligation of funds, Louisiana was required to submit Action Plans to HUD detailing the proposed use of all funds, including criteria for eligibility and how the use of the funds would address long-term recovery. As required, Louisiana submitted its Actions Plans for both of the Federal Appropriations. (Actions Plan and Plan Amendments concerning The Road Home program are available at <http://www.doa.louisiana.gov/cdbg/dractionsplans.htm>.)

Louisiana's Action Plans, including the development of The Road Home Program, were submitted to HUD and approved by HUD prior to Louisiana receiving any CDBG funds; Louisiana is legally bound to the Action Plans and cannot deviate from them in any way. In other words, the Action Plan and Plan Amendments are the controlling policies and procedures for the eligibility, disbursement and administration of CDBG funds and the OCD is unable to deviate from these proscribed policies and procedures for any individual applicant.

In each of the Action Plans detailing the assistance available under the Road Home program, Louisiana stressed the nature and scope of available assistance, including the fact that available grants are not annually funded entitlement programs.

Any CDBG funds paid to Louisiana property owners by the state under the Road Home program is thus an offer of assistance based on eligibility, and not an “entitlement.” In Action Plan Amendment 1, which creates The Road Home Program, it states: “Eligible assistance does not represent an entitlement to the homeowner, under any circumstances.” Likewise, it states:

**Note that The Road Home is not an entitlement program and cannot go over budget.** If costs exceed budgeted projections, grant assistance to homeowners will have to be reduced, and the program would pro-rate benefits to all homeowners.

(Emphasis added.)

Thus, Plaintiffs are not a grant beneficiary to the CDBG funds. Instead, the law and regulations illustrate that the State of Louisiana is the beneficiary of the federal grants. Where the funds are allocated to Louisiana to use for long-term recovery and restoration of infrastructure, Plaintiffs simply have no interest or right recognized by law to challenge the administration of those grants.

### **C. The Road Home Program Policies**

The Road Home program policies are published on the internet and contain the policies and directives as approved by HUD in the Action Plans. (See policies, <http://road2la.org/homeowner/resources.htm#policies>.) These program policies clearly state the deadlines for The Road Home program:

#### **4.1 Deadlines**

- Application Deadline: July 31, 2007
- Deadline for First Advisory Meeting: December 15, 2007

- Deadline for submission of Benefit Election Letter: November 1, 2008

(Homeowner Policies § 4.1, attached as Exhibit C.)

Further, the necessity for submitting an application and the application deadline were published in numerous press releases and statements by The Road Home. For instance, in press releases dated October 3, 2006 and November 8, 2006, the Road Home announced it required applications even if homeowners previously participated in the Road Home Registry: “Homeowners must complete a full application online or submit a hard copy whether or not they pre-registered for the program.” (Press Releases, attached *in globo* as Exhibit D.) Likewise, the July 31, 2007 deadline was published in numerous press releases and on the Road Home website. (See deadline publication and press releases, attached *in globo* as Exhibit E.)

Finally, the Road Home policies and press releases also explain in detail the requirements for participating in the “Sold Home” program, the program Plaintiffs claim they should be included in since they sold their home on February 14, 2007. (Complaint, ¶ 5.) In order to be eligible for the “Sold Home” program, the applicant meet the following criteria:

- Your damages property must be located in one of the 37 presidentially declared parishes.
- You must have owned and occupied the damages property as your primary residence at the time of Hurricane Katrina (August 29, 2005) or Hurricane Rita (September 24, 2005).

- Your home was a single-unit, double-unit, town home, mobile home or condominium.
- The property must have been registered for FEMA assistance and must meet one or more of the FEMA criteria listed in The Road Home program policies.
- **You must have applied to The Road Home program prior to the application deadline of July 31, 2007, and must have completed an appointment by December 15, 2007.**
- There has been a sale of the property prior to August 29, 2007.
- For Hurricane Katrina: The home must have been sold between August 30, 2005 and August 28, 2007 and the sale must have been recorded with the parish no later than September 29, 2007.

(See Sold Home FAQ, Policies and Press Releases, attached *in globo* as Exhibit F.)(Emphasis added.) Clearly, one of the prerequisites for participating in the Sold Home program was application with the Road Home prior to the July 31, 2007 deadline.

#### **D. HUD Deadline Enforcement**

As mentioned in the October 20, 2009 determination letter from OCD to Plaintiffs (attached as Exhibit F to Plaintiff's Complaint), HUD issued a determination letter on May 8, 2009, which states in pertinent part:

HUD re-emphasizes that the Department cannot grant exceptions for applicants who failed to meet the statutory July 31, 2007 application deadline.

\* \* \*

Road Home applicants that failed to comply with the July 31, 2007, application deadline may not receive any Road Home

homeowner compensation program payments from the funds allocated to that program in accordance with the Action Plans for disaster recovery for the grants made under Public Laws 109-48, 109-234 and 110-116, as those plans had been amended and accepted by HUD as of the time described in the Notice. The Notice prevents the state from using the grant under Public Law 110-116 to make payments to those who missed the deadline, and it prevents the state from reprogramming funds out of the homeowner compensation program from the other two grants.

(HUD letter, attached as Exhibit G.)

Therefore, based on HUD's directives, the LRA and/or OCD is prohibited from accepting applications for Road Home funds after the July 31, 2007 deadline. In accordance with HUD's rules, the OCD is unable to award any grant funds to homeowners who failed to timely submit an application to The Road Home.

### **III. LAW AND ARGUMENT**

#### **A. The Standard for a Motion to Dismiss**

##### **1. Dismissal under Fed. R. Civ. P. 12(b)(1)**

Federal courts have limited jurisdiction. They may hear only those cases entrusted to them by a grant of power contained in either the Constitution or in an Act of Congress. *City of Kenosha v. Bruno*, 412 U.S. 507, 511, 93 S.Ct. 2222, 37 L. Ed. 2d 109 (1973); *Howery v. Allstate Ins. Co.*, 243 F.3d 912 (5th Cir. 2001) (citations omitted). It is the plaintiffs' burden of proof to establish that the court has subject matter jurisdiction to hear the case. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992); *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001).



In ruling on a motion to dismiss under Rule 12(b)(1), a court may look to: “(1) the complaint alone; (2) the complaint supplemented by undisputed facts; or, (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts.” *Robinson v. TCI/US West Communications, Inc.*, 117 F.3d 900, 904 (5th Cir. 1997). Where a court reviews extrinsic evidence for a Rule 12(b)(1) motion, no presumption of truthfulness attaches to the plaintiff's allegations. *Williamson v. Tucker*, 645 F.2d 404, 412-13 (5th Cir. 1981).

## **2. Dismissal under Fed. R. Civ. P. 12(b)(6)**

In considering a motion to dismiss under Rule 12(b)(6), a court accepts all well-pleaded facts as true and draws all reasonable inferences in favor of the plaintiff. *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007). To avoid dismissal, the plaintiff must plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 1974, 167 L.Ed.2d 929 (2007); *In re Katrina Canal Breaches Litig.*, 495 F.3d at 205. “Factual allegations must be enough to raise a right to relief above the speculative level on the assumption that all allegations in the complaint are true (even if doubtful in fact).” *Twombly*, 127 S.Ct. at 1965.

Recently, in *Ashcroft v. Iqbal*, --- U.S. ----, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009), the Supreme Court clarified the standard of pleading that a plaintiff must meet in order to survive a motion to dismiss under Rule 12(b)(6). The Court noted that “Federal Rule of Civil Procedure 8(a)(2) requires only ‘a short and plain statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the defendant fair notice of what the ... claim is and the grounds upon which it rests[.]’” *Ashcroft v. Iqbal*, 129 S.Ct.

at 1949; See also, *Twombly*, 127 S.Ct. at 1965. Notwithstanding, although “detailed factual allegations” are not necessary to withstand a Rule 12(b)(6) motion to dismiss, a plaintiff must furnish “more than labels and conclusions” or the “formulaic recitation of the elements of a cause of action” in order to provide the “grounds” of “entitle[ment] to relief.” *Id.* “Something beyond ... mere possibility ... must be alleged.” *Id.* A plaintiff must provide more than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* Where a complaint pleads facts that are “merely consistent with” a defendant's liability, it “stops short of the line between possibility and plausibility of entitlement to relief. *Id.* Conclusory allegations and unwarranted factual deductions will simply not suffice to avoid a motion to dismiss. *Ashcroft v. Iqbal*, 129 S.Ct. at 1949; *United States ex rel. Willard v. Humana Health Plan of Texas, Inc.*, 336 F.3d 375, 379 (5th Cir. 2003).

**B. Plaintiffs’ Claims Against the LRA and/or the OCD are Barred under the Eleventh Amendment**

The Eleventh Amendment bars Plaintiffs from pursuing their claims against the LRA and the OCD in federal court.

The Eleventh Amendment to the United States Constitution provides:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against on the United States by citizens of another state, or by citizens or subjects of any foreign state.

(U.S. Const. amend XI).

It is axiomatic that the Eleventh Amendment “bars an individual from suing a state in federal court unless the state consents to suit or Congress has clearly and validly abrogated the state’s sovereign immunity.” *Perez v. Region 20 Educ. Serv. Ctr.*,

307 F.3d 318, 326 (5<sup>th</sup> Cir. 2002). The protection of the Eleventh Amendment “extends to any state agency or entity deemed an alter ego or arm of the state.” *Perez*, 307 F.3d at 326. The Eleventh Amendment not only bars suits against the state by citizens of another state, but also applies equally to suits against a state initiated by that state’s own citizens. *Edelman v. Jordan*, 415 U.S. 651, 663, 94 S.Ct. 1347, 39 L.Ed.2d 1662 (1974); *Hans v. Louisiana*, 134 U.S. 1, 13-15, 10 S.Ct. 504, 33 L.Ed. 842 (1890).

Eleventh Amendment immunity is, however, subject to three primary exceptions:

- (1) Congressional abrogation;
- (2) Waiver by the state; and,
- (3) Suits against individual state officers for prospective injunctive and declaratory relief to end an ongoing violation of federal law.

*Pennsylvania Fed’n of Sportsmen’s Clubs, Inc. v. Hess*, 297 F.3d 310, 323 (3d Cir. 2002).

Under the first prong of the abrogation test, in order for Congress to abrogate the state’s sovereign immunity granted by the Eleventh Amendment, Congress must (1) intend to do so unequivocally and (2) act under a validate grant under of Congressional authority. *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356, 363-64, 121 S.Ct. 955, 148 L.Ed.2d 866 (2001). The Supreme Court in *Edelman* held that a court will find waiver only where it is stated “by the most express language or by such overwhelming implications from the text as [will] leave no room for any other reasonable construction.” *Edelman*, 415 U.S. at 673. The purpose of this “stringent” test is to “to be certain that the state in fact consents to suit.” *College Savings Bank v. Florida Pre-Paid Post Secondary Education Expense Board*, 527 U.S. 666, 675, 680, 119 S.Ct.

2219, 144 L.Ed2d 605 (1999). Thus, we will not find “consent by implication or by use of ambiguous language.” *Library of Congress v. Shaw*, 478 U.S. 310, 318, 106 S.Ct. 2957, 92 L.Ed.2d 250 (1986).

Congress has not unequivocally abrogated the states’ sovereign immunity with respect to claims under 42 U.S.C. § 1983 or claims for equal protection under the Fourteenth Amendment. Indeed, the Supreme Court has held that with respect to § 1983 suits seeking damages, “Congress, in passing § 1983, had no intention to disturb the States’ Eleventh Amendment immunity . . .” *Will v. Michigan Department of State Police*, 491 U.S. 58, 66, 109 S.Ct. 2304, 2309, 105 L.Ed.2d 45 (1989), *citing Quern v. Jordan*, 440 U.S. 332, 338, 99 S.Ct. 1139, 1144, 50 L.Ed.2d 358 (1979). Likewise, Plaintiffs’ allegations regarding violations of the Equal Protection Clause of the Fourteenth Amendment are barred by the State’s sovereign immunity under the Eleventh Amendment. *See Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 54, 116 S.Ct. 1114, 134 L.Ed.2d 252 (1996); *Ross v. Texas Education Agency*, 2009 WL 3254935, at \*8 (S.D. Tex. Sept. 28, 2009).

As for the second prong, by statute Louisiana has explicitly declined to waive its Eleventh Amendment sovereign immunity regarding suits in federal court. La. Rev. Stat. Ann. § 13:5106(A) provides that “[n]o suit against the state or a state agency or political subdivision shall be instituted in any court other than a Louisiana state court.” Importantly, “a state does not waive its sovereign immunity through its mere receipt of federal funds or participation in a federal program.” *Atasendero State Hospital v. Scanlon*, 473 U.S. 234, 246–47, 105 S.Ct. 142, 87 L.Ed.2d 171 (1985). Instead, Congress must also express “a clear intent to condition participation . . . on a state’s

consent to waive its constitutional immunity.” *Id.* at 247; *Litman vs. George Mason University*, 186 F.3d 544, 554 (4th Cir. 1999) (recognizing Congress must “codify a clear, unambiguous and an unequivocal condition of waiver.”)

The third prong is inapplicable since Plaintiffs have not sued an individual state officer individual state officers for prospective injunctive and declaratory relief to end an ongoing violation of federal law.

Significantly, Plaintiffs conceded that LRA and OCD are “agencies of the State of Louisiana.” (Complaint, ¶¶ 3, 4.) Because neither the State of Louisiana nor Congress has abrogated the Eleventh Amendment applicable to the LRA and the OCD, the Court should dismiss Plaintiffs’ claims against them pursuant to Fed. R. Civ. P. 12(b)(1). See also, *Robinson v. The Road Corporation*, 2010 WL 148364, at \*1 (E.D. La. Jan. 12, 2010)(holding the plaintiffs claims against the LRA and the OCD were barred by the Eleventh Amendment under similar factual allegations).

**C. Plaintiff’s § 1983 Claims Should be Dismissed**

**1. The State of Louisiana and Its Agencies are not “Persons” Capable of Being Sued Under § 1983**

Even if the Eleventh Amendment did not absolutely bar any § 1983 claim against the LRA and the OCD, those claims still must be dismissed since the State of Louisiana and its agencies are not “persons” capable of being sued under § 1983.

Section 1983 reads in pertinent part that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subject, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Under the clear wording of the statute, § 1983 only recognizes a cause of action against a “person” who is alleged to have deprived the plaintiff of any “rights, privileges and immunities.” As with the Eleventh Amendment bar discussed above, clear Supreme Court authority holds that the State of Louisiana and its agencies are not “persons” who can be sued under § 1983.

In *Will v. Michigan Department of State Police*, *supra*, the United States Supreme Court was, in its own words, presented with “the question of whether a state, or an official of the state while acting in his or her official capacity, is a ‘person’ within the meaning of 42 U.S.C. §1983.” *Will v. Michigan Department of State Police*, 491 U.S. at 60, 109 S.Ct. at 2307. After examining the quoted language of Section 1983, together with an extensive examination of the statute’s legislative history and the Court’s interpretation of it, the United States Supreme Court’s holding with respect to the issue that it framed was just as clear and just as terse when it stated:

“We hold that neither a State nor its officials acting in their official capacities are “persons” under §1983.” *Will v. Michigan Department of State Police*, 491 U.S. at 71, 109 S.Ct. at 2312. *See also*, *Searls v. Louisiana*, 2009 WL 653043, at \*3 (E.D. La. Jan. 21, 2009). Under clear Supreme Court authority neither the LRA nor the OCD are “persons” capable of being sued under § 1983 and, accordingly, Plaintiffs’ § 1983 claims against them must be dismissed.

**D. Plaintiffs' Equal Protection Claims under the Fourteenth Amendment Should be Dismissed**

**1. The Fourteenth Amendment Does Not Provide Plaintiffs with a Private Right of Action**

The only other federal cause of action that is alleged against the LRA and the OCD by Plaintiffs is a claim that actions of those state agencies subjected the Plaintiffs to “disparate treatment” in “violation of plaintiffs’ right to equal protection under the law as guaranteed by the 14<sup>th</sup> Amendment of the U.S. Constitution . . . .” (Complaint, ¶ 27). Again, these claims are barred by the Eleventh Immunity. However, nevertheless, Plaintiffs’ Complaint does not allege any statutory basis for the claim that the LRA and the OCD violated the 14<sup>th</sup> Amendment and it is apparently the Plaintiffs’ claim that the Amendment, standing alone, affords them with a private right of action.

Any claim that the 14<sup>th</sup> Amendment standing alone recognizes a private right of action resting solely on the language of the Amendment was expressly rejected by the Fifth Circuit Court of Appeals in *The Hearth, Inc. v. Department of Public Welfare*, 612 F.2d 981 (5<sup>th</sup> Cir. 1980), modified 617 F.2d 381 (5<sup>th</sup> Cir. 1980)(per curium). In that case, the Plaintiff, a not-for-profit hospital, sued the Texas Department of Public Welfare in what was essentially a contract dispute. In summarizing the Plaintiffs’ claim, the Court of Appeal noted:

[A]ppellant appears to assert that the failure of Texas to provide a forum to adjudicate this contract dispute with the Department amounts to a denial of due process of law. As appellant does not cite us to any statute or common law doctrine which might authorize such a suit in the federal courts, we must assume that appellant wishes us to hold that the Fourteenth Amendment alone provides a basis for invoking federal jurisdiction.

*The Hearth, Inc. v. Department of Public Welfare*, 612 F.2d at 982.

The Fifth Circuit Court of Appeal expressly rejected the plaintiffs' attempt to fashion a private right of action arising solely out of the language of the 14<sup>th</sup> Amendment. In doing so, the Court stated that:

Although there have been a few notable exceptions, See, e.g. *Davis v. Passman*, 442 U.S. 228, 99 S.Ct. 2264, 60 L.Ed.2d 846 (1979); *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971), the federal courts, and this Circuit in particular, have been hesitant to find causes of action arising directly from the Constitution. Our reluctance stems from many concerns, not the least of which is our awareness that the framers of the Constitution saw fit to entrust the job of legislating to the Congress.

*The Hearth, Inc. v. Department of Public Welfare*, 612 F.2d at 982.<sup>1</sup>

The Court of Appeals for the Fifth Circuit has not been the only federal appellate court to reject an attempt to manufacture a new cause of action arising solely out of the language of the 14<sup>th</sup> Amendment. In *Vakas v. Rodriguez*, 728 F.2d 1293 (10<sup>th</sup> Cir. 1984), the Tenth Circuit Court of Appeals was faced with a lawsuit that, while factually different from the instant lawsuit, was on "all fours" with respect to the legal issues involved.

In *Vakas, supra*, the plaintiff had asserted a § 1983 claim, although by the time the lawsuit had reached the appellate level, Plaintiff had conceded that any § 1983 claim was barred by the 11<sup>th</sup> Amendment. Plaintiff sought to circumvent this by trying to convince the district court that it should fashion a new cause of action arising out of the 14<sup>th</sup> Amendment. The argument was rejected by the district court and Tenth Circuit affirmed stating:

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<sup>1</sup> As noted in the citation to the case, the Court of Appeal in *The Hearth, Inc.*, later modified its opinion. The modified opinion, however, simply changed the basis of the Court's dismissal of the plaintiff's claim from "lack of jurisdiction" to "failure to state a claim upon which relief can be granted." That change, if anything, only serves to strengthen Movers' argument that the 14<sup>th</sup> Amendment does not recognize any private right of action. The Court also noted in both the original and the modified opinion that the fact that there might be defenses to any non-pled Section 1983 claim did not warrant the recognition of a new cause of action based only on the 14<sup>th</sup> Amendment.



An additional compelling justification for court refusal to fashion a private remedy under the Fourteenth Amendment in cases against states and their agencies are the provisions of the Eleventh Amendment. Express waiver of the Eleventh Amendment by congressional action is required under the enforcement mechanism of the Fourteenth Amendment. *Quern v. Jordan*, 440 U.S. 332, 99 S.Ct. 1139, 59 L.Ed.2d 358 (1979); *Fitzpatrick v. Bitzer*, 427 U.S. 445, 96 S.Ct. 2666, 49 L.Ed.2d 614 (1976). Where, as here, the Congress has chosen not to enact an enforcement scheme *directly* addressing the appellant's situation, the state retains its sovereign immunity.

*Vakas v. Rodriguez*, 728 F.2d at 1296.

As the Court can see, the overriding consideration expressed in both *The Hearth, Inc.* and *Vakas* is that it is for Congress to decide by appropriate legislation to what extent the enforcement powers afforded to it under Section 5 of the 14<sup>th</sup> Amendment are to be exercised. It is also for Congress to decide whether the enforcement powers it ultimately chooses to exercise necessarily requires the abrogation of the State's 11<sup>th</sup> Amendment immunity.<sup>2</sup> Until Congress has done so, however, the 11<sup>th</sup> Amendment remains fully applicable whether the Plaintiffs call their claim a Section 1983 claim or a 14<sup>th</sup> Amendment claim. Plaintiffs' claims under the 14<sup>th</sup> Amendment should be dismissed.

## **2. Plaintiffs Fail to State an Equal Protection Claim**

The Equal Protection Clause of the Fourteenth Amendment states, "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Both the Fourteenth Amendment to the U.S. Constitution and La. Const. art. I, § 3 provide that all persons are entitled to equal protection of the law. The Equal Protection Clause is essentially a direction that all persons similarly situated should be treated alike. *City*

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<sup>2</sup> See e.g. *Will v. Michigan Department of State Police*, 109 S.Ct. 2310. If the 14<sup>th</sup> Amendment operated on its own force there would be no reason for Congress to exercise any enforcement function under Section 5 of the 14<sup>th</sup> Amendment.

of *Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439, 105 S.Ct. 3249, 87 L.Ed. 2d 313 (1985); *Whitnell v. Silverman*, 95-0112 (La. 12/6/96), 686 So.2d 23, 29-30. However, the equal protection provisions of the state and federal constitutions do not require absolute equality or precisely equal advantages. *Ross v. Moffitt*, 417 U.S. 600, 612, 94 S.Ct. 2437, 2444, 41 L.Ed.2d 341 (1974); *Frederick v. Ieyoub*, 2000-1811 (La. App. 2 Cir. 4/12/2001), 789 So.2d 581.

While equal protection claims may be subject to a different analysis under the federal and state guarantees, a minimal standard of review applies under both provisions where, as here, there is no fundamental right, suspect class or enumerated characteristic alleged as a the bases for discrimination. *Progressive Security Ins. Co. v. Foster*, 97-2985 (La. 4/23//98), 711 So.2d 675, 685-87. Absent a “suspect class” of persons or a “fundamental right,” classifications are only set aside if they are based solely on reasons totally unrelated to the pursuit of the state’s goals and only if no grounds can be conceived to justify them. *Frederick v. Ieyoub*, 1999-0616 (La. App. 1 Cir. 5/12/00), 762 So.2d 144, 148 (*quoting Clements v. Fashing*, 457 U.S. 957, 102 S.Ct. 2836, 73 L.Ed.2d 508 (1982)).

Plaintiffs’ equal protection argument is premised on the assertion that they were subjected to “disparate treatment.” However, Plaintiffs fail to identify how they were treated differently. In other words, in order to state an equal protection claim, the complaint must specifically allege how the LRA and/or the OCD treated Plaintiffs differently or less favorably than others and how that unjustified disparate treatment resulted in the denial of benefits to Plaintiffs. See *American International Gaming Association, Inc. v. Louisiana Riverboat Gaming Commission*, 2000-2864 (La. App. 1

Cir. 9/11/02), 838 So.2d 5, 17. Plaintiffs' Complaint fails to allege even the minimum facts necessary to assert an equal protection claim.

Indeed, Plaintiffs cannot allege they were treated differently than similarly situated individuals, i.e., homeowners who failed to timely apply for Road Home compensation grants by the July 31, 2007 deadline. Indeed, as the policies and HUD's determination clearly demonstrate, there were no exceptions to the application deadline. Failure to submit an application by July 31, 2007, regardless of the reason, resulted in the homeowner being deemed ineligible for benefits under the programs. Plaintiffs were not treated any differently in this regard, and cannot allege any facts to demonstrate that they were not treated in complete compliance with the LRA and/or the OCD's guidelines, policies and Action Plans.

#### **E. Plaintiffs' State Law Claims Should be Dismissed**

##### **1. The Court Should Decline Supplemental Jurisdiction**

Although 28 U.S.C. § 1367 may confer supplemental jurisdiction over Plaintiffs' state law claims for negligence, the assertion of supplemental jurisdiction may be declined if all claims over which the Court has original jurisdiction are dismissed. See 28 U.S.C. § 1367(c)(3).<sup>3</sup> In fact, in this Circuit, the general rule "is to decline to exercise jurisdiction over pendent state law claims when all federal claims are dismissed or otherwise eliminated from a case prior to trial." *Batiste v. Island Records, Inc.*, 179 F.3d 217, 227 (5th Cir. 1999); accord *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7, 108 S.Ct. 614, 98 L.Ed.2d 720 (1988) ("In the usual case in which all federal-law claims

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<sup>3</sup> A district court may decline to exercise supplemental jurisdiction if: (1) the claim raises a novel or complex issue of State law; (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction; (3) the district court has dismissed all claims over which it has original jurisdiction, or (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction. 28 U.S.C. § 1367(c).

are eliminated before trial, the balance of factors to be considered under the pendent jurisdiction doctrine ... will point toward declining to exercise jurisdiction over the remaining state-law claims”); *Smith v. Amedisys, Inc.*, 298 F.3d 434, 446-447 (5th Cir. 2002). In addition to the statutory factors under 28 U.S.C. § 1367(c), the court must also balance the factors of judicial economy, convenience, fairness, and comity. *Amedisys*, 298 F.3d at 446. “Needless decisions of state law should be avoided both as a matter of comity and to promote justice between the parties, by procuring for them a surer-footed reading of the applicable law.” *Noble v. White*, 996 F.2d 797,799 (5th Cir. 1993). Ultimately, the court has “wide discretion in determining whether to retain supplemental jurisdiction over a state claim once all federal claims are dismissed.” *Noble v. White*, 996 F.2d at 799. Notwithstanding, the “general rule” is to decline supplemental jurisdiction. *Amedisys*, 298 F.3d at 446-47.

Plaintiffs’ state law negligence claim is grounded exclusively in Louisiana law, not federal law, and are asserted against the LRA and the OCD – entities defined by law as agencies of the State of Louisiana. Principles of comity weigh in favor of allowing a Louisiana state forum to adjudicate Plaintiffs’ state law claims against state agencies. As detailed above, Plaintiffs should not be permitted maintain their federal law claims against the LRA and the OCD and such claims should be dismissed as a matter of law. To the extent Plaintiffs’ federal law claims are dismissed, only Plaintiffs’ state law negligence claim would remain - claims over which this Court lacks any independent basis for jurisdiction. Accordingly, Defendants respectfully ask this Court to decline supplemental jurisdiction over Plaintiffs’ state law claims and dismiss them in their entirety.

## **2. Plaintiffs Have Failed to State Law Claim**

The OCD and the LRA would also show Plaintiffs' negligence claim is without merit and should be dismissed for failure to state a claim. Plaintiffs assert vague and conclusory allegations that the LRA and the OCD are somehow responsible for their failure to timely file an application for The Road Home by the July 31, 2007 deadline. Plaintiffs' allegations of negligence are insufficient under the standards set forth in *Ashcroft v. Iqbal*, *supra*, and their claim of negligence against the LRA and the OCD should be dismissed.

Indeed, the LRA and the OCD had no duty to ensure Plaintiffs timely submitted an application for The Road Home program. The LRA and the OCD published the requirements for all homeowners to complete an application (even if the homeowner participated in the pre-registration Home Registry Program) and submit the application before the July 31, 2007 deadline. (Exhibits C-E.) These policies were communicated through The Road Home website, and published in various media outlets in the State. Nevertheless, Plaintiffs opted not to register for The Road Home program, presumably because they believed they were ineligible because they had already sold their home. (Complaint, ¶ 12.) Thereafter, Plaintiffs did not attempt to apply to The Road Home until August 1, 2008, at the earliest, over one year after the deadline. (Complaint, ¶ 13.) As has been shown, the LRA and the OCD have no power and are not in a position to waive the strict July 31, 2007 application deadline; HUD's oversight of the program mandates that in order to receive the federal funds, homeowners had to apply by July 31, 2007. (Exhibit G.) Plaintiffs have failed to allege the LRA and/or the OCD's actions

caused them to miss the application deadline. Simply put, Plaintiffs failed to submit a Road Home application by the deadline, and thus have no recourse.

Finally, Plaintiffs do not have the right to challenge either the LRA or the OCD's discretionary functions and policies, *i.e.*, in order to change the policies to allow a late application, or the right to a judicial review of the LRA or the OCD's decisions. See *Dandridge v. Office of Community Development*, 2009-1564, p.1 (La. App. 1 Cir. Dec. 7, 2009), 2009 WL 4724237, at \*1, holding homeowners do not have a right or cause of action for judicial review of OCD's determinations. Plaintiffs cannot challenge these policies and decision circuitously by couching them in a negligence claim, when they are prohibited from bringing these claims directly.

#### **IV. CONCLUSION**

**WHEREFORE**, for the reasons set forth above, Defendants, the Louisiana Recovery Authority and the Louisiana Division of Administration through the Office of Community Development, respectfully ask this Court to grant their Motion to Dismiss and dismiss with prejudice Plaintiff's Complaint against the LRA and the OCD in its entirety, at Plaintiffs' costs.

Respectfully submitted,

/s/ Renee Culotta

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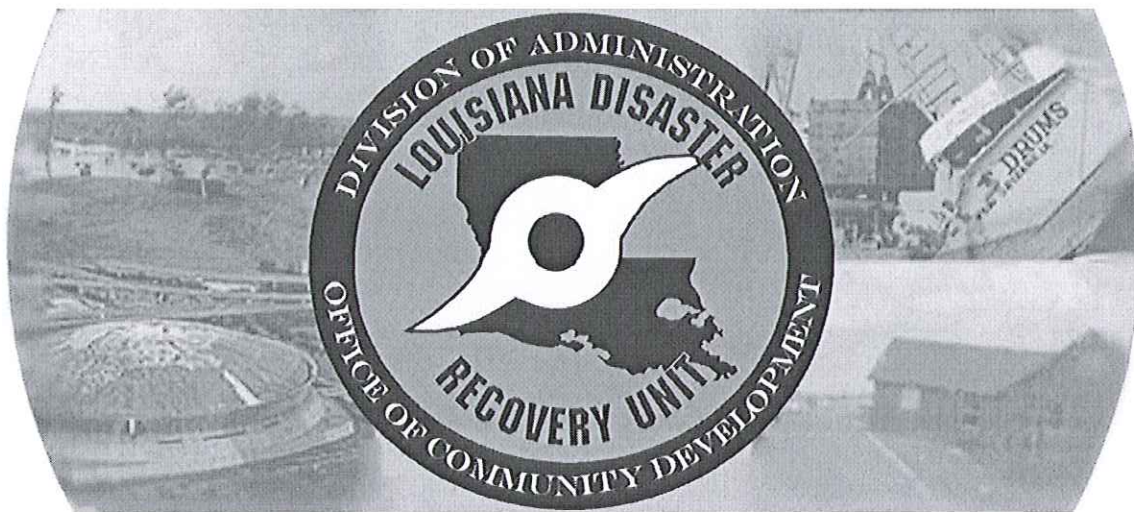
**ATTORNEYS FOR DEFENDANTS,  
THE LOUISIANA RECOVERY AUTHORITY AND  
LOUISIANA DIVISION OF ADMINISTRATION  
THROUGH THE OFFICE OF COMMUNITY  
DEVELOPMENT**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 1<sup>st</sup> day of February 2010, I electronically transmitted a PDF version of this document to the Clerk of Court, using the CM/ECF System, for filing and for transmittal of a Notice of Electronic Filing upon all CM/ECF registrants.

/s/ Renee Culotta

# The Road Home Housing Registry



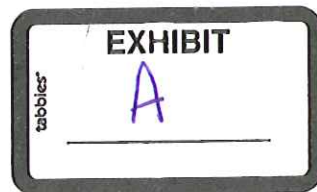
## Closeout Report

November 15th, 2006

By

Dominique Duval-Diop  
Paul Catrou  
Charles Flanagan  
Starr Moore

Division of Administration  
Office of Community Development  
Disaster Recovery Unit  
Policy and Reporting Section





# The Road Home Registry Closout Report

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# The Road Home Registry Closout Report

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## Introduction

Governor Kathleen Babineaux Blanco established the Road Home (RH) program to compensate homeowners whose residences sustained major or severe damage due to Hurricanes Katrina and Rita. Louisiana's Office of Community Development (OCD) was charged with implementing Governor Blanco's program – the largest single housing program in United States history.

An important early task of the OCD's implementation plan for the RH Program was to collect data on the number, geographic distribution, and contact information of homeowners who would potentially seek assistance through the Governor's RH Program. The OCD set up the Road Home Registry to collect such data. Of particular interest at this point was the need to collect contact information on displaced homeowners for future outreach efforts when the Road Home Program was fully implemented. The Registry was designed to allow both telephone and online registration.

Citizens calling 1-888-ROAD-2-LA or logging onto [www.LouisianaRebuilds.info](http://www.LouisianaRebuilds.info) were asked to provide important information to aid the OCD's implementation plan for the RH program. The information requested included the homeowner's name, current address and the location of the affected home, phone numbers, mortgage information, the status of any insurance settlements and any FEMA or U.S. Small Business Association (SBA) applications or assistance.

The information contributed by the homeowners to the Registry gave the OCD useful, basic data on the number, geographic distribution, and contact information of homeowners seeking assistance from the RH Program. Homeowners may now apply to the Road Home Program for the actual financial assistance or RH grants that are available to eligible homeowners.

Citizens can apply for this program online at the [www.road2la.org](http://www.road2la.org), by mail, or by calling 1-888-ROAD-2-LA. The OCD will report on the progress of the Road Home Program in future publications.

# The Road Home Registry Closout Report

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## Background

Hurricane Katrina hit the State of Louisiana on August 29, 2005, and Rita slammed into the State on September 24, 2005. They were the second and third Category 5 hurricanes of the 2005 hurricane season. Both were deadly and costly to communities throughout the Gulf and particularly destructive to Louisiana. More than 1,400 persons lost their lives in Louisiana; approximately 18,000 businesses were destroyed; roads, schools, public facilities, medical services were washed away; and thousands of people were forced to relocate. The storms destroyed or severely damaged an unprecedented number of homes and rental properties. Hundreds of thousands of Louisianans were displaced. The entire State was eventually declared a national disaster. Of the rental and owner occupied units rendered uninhabitable by the storms, a substantial portion were occupied by low income households.

## Analysis of Road Home Registry Data

Several factors affect the use, interpretation, and predictive value of RH Registry data. RH Registry data were self-reported and are unverified. Registrants were not required to provide supporting documentation to verify the information they provided. The Registry database also contained incomplete data and inconsistent formatting. Some individuals may have registered more than once, so the data may include duplicate registrations. These factors posed significant challenges to data clean-up efforts. They also impacted the quality of Registry data and constrained the types of analyses that could be conducted with a high level of confidence. Lastly, these data quality issues negatively impacted the timeline for conducting analyses and producing useful results.

In addition to the data quality issues outlined above, there are sociological factors that should be considered when interpreting these data and analyses. Registrants may be in considerably different circumstances when applying to the Road Home Program from when they participated in the RH Registry. Furthermore, people who participated in the RH Registry may ultimately decide for various reasons not to apply to the RH Program.

In sum, caution should be used when interpreting the data and analyses in this report. Registry data yield only preliminary indications of the demographics and locations of potential RH applicants and the decisions they *may* make as they rebuild their lives.

Even considering the constraints outlined above, registry data has, however, provided an indication of concentrations of displaced citizens and damaged properties, thus enabling efficient planning related to the deployment of Homeowner Assistance Centers. Information from the Registry was also used to gage the potential demand for the program and to estimate the potential pool of eligible homeowners for these

# The Road Home Registry Closout Report

programs. These lessons highlight both the usefulness of this tool in response to a disaster, and how its use can be improved in the event of another disaster.

This report presents summary statistics on the 109,725 registrations taken for the Road Home between March 8, 2006 and August 21, 2006, the operational period of the RH registry. The Office of Community Development will follow up this report with a report on RH applications. The results from the application report will be compared with those of this report to evaluate if this type of registry is a useful planning tool in the event of another disaster.

Road Home registrants come from a number of parishes that fall within the FEMA declared parishes for Hurricanes Katrina and Rita. The largest concentrations of registrants emanated from the nine parishes that appear in the table below.

## Parishes with Most RH Registrants

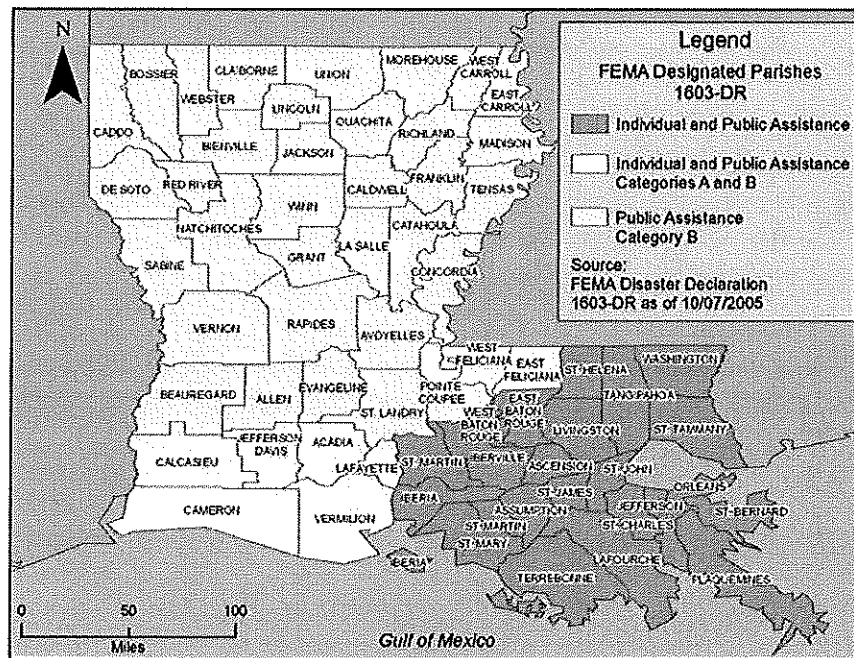
Katrina Parishes	Total Registrants	Percentage of Registrants
Orleans	59,956	59%
St. Bernard	15,878	16%
Jefferson	13,450	13%
St. Tammany	7,418	7%
Plaquemines	3,903	4%
Terrebonne	1,015	1%
<b>Total</b>	<b>101,620</b>	
Rita Parishes	Total Registrants	Percentage of Registrants
Calcasieu	2,221	64%
Vermilion	1,275	37%
Cameron	1,116	32%
<b>Total</b>	<b>4,612</b>	
<b>Other Parishes</b>	<b>3,493</b>	

**TOTAL REGISTRATIONS = 109,725**

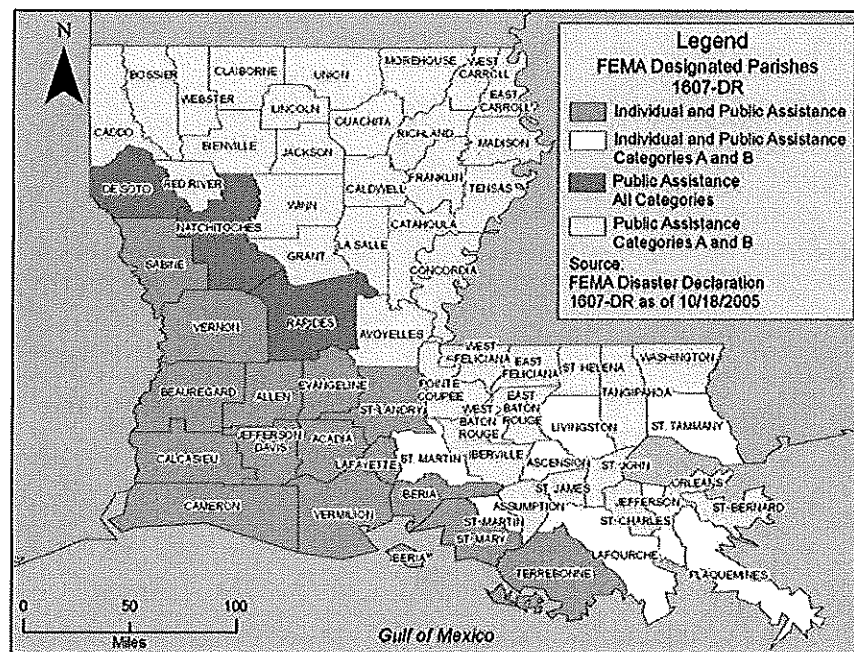


# The Road Home Registry Closout Report

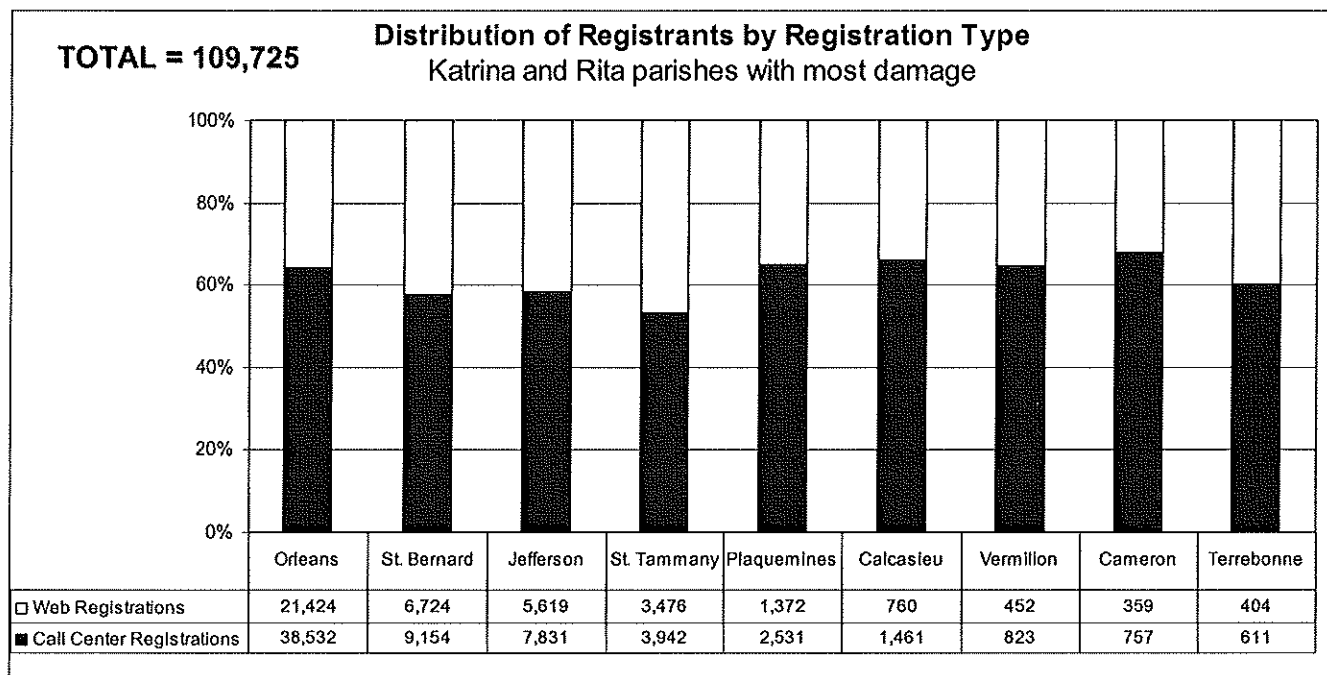
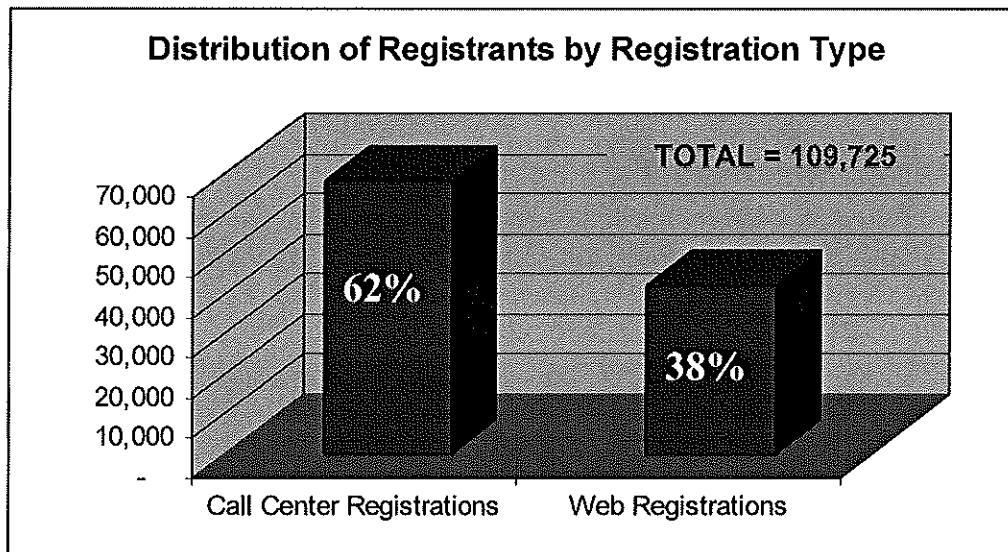
## Katrina Disaster Declared Parishes



## Rita Disaster Declared Parishes



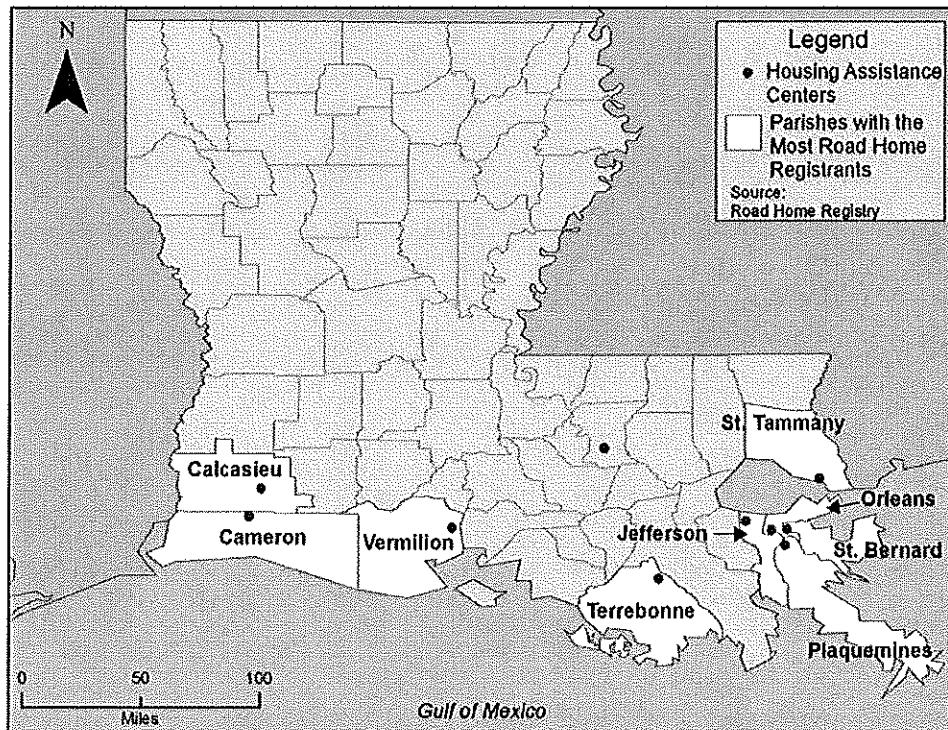
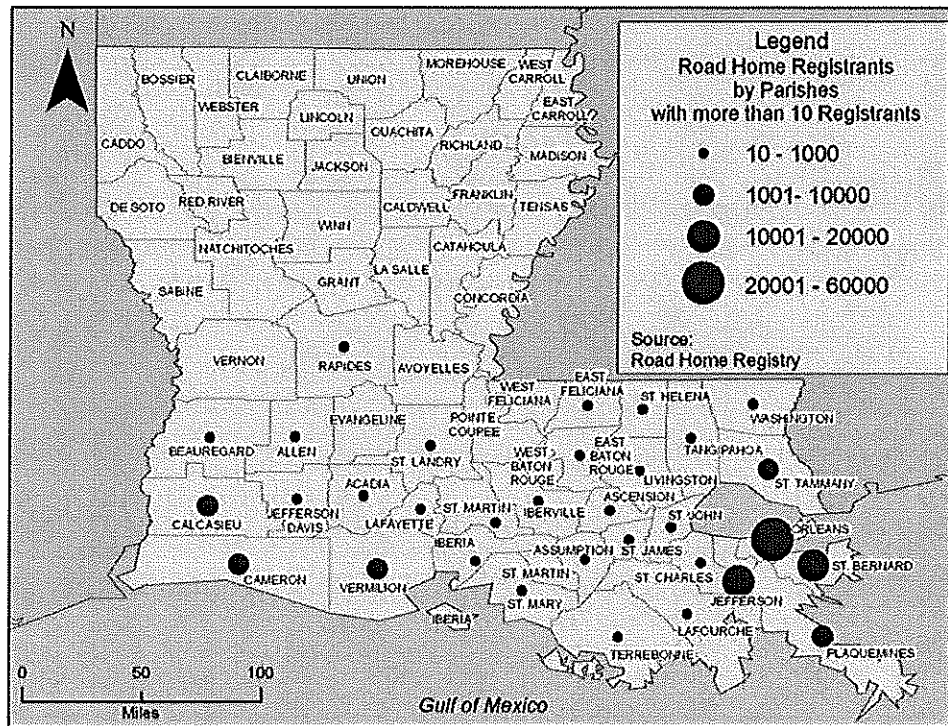
# The Road Home Registry Closout Report



Approximately 96.8% of the 109,725 homeowners who registered as of August 21, 2006 originated from nine parishes that were devastated by Hurricanes Katrina and Rita. Five of these parishes sustained major damage from Hurricane Katrina (Orleans, St. Bernard, Jefferson, St. Tammany, Plaquemines and Terrebonne) and another three from Hurricane Rita (Calcasieu, Vermillion and Cameron). A total of 62% of registrants used a call center to register for the Road Home program. The average percent of web registrations among these parishes was 38% with St. Tammany showing the greatest percentage of such registrants of 47%.

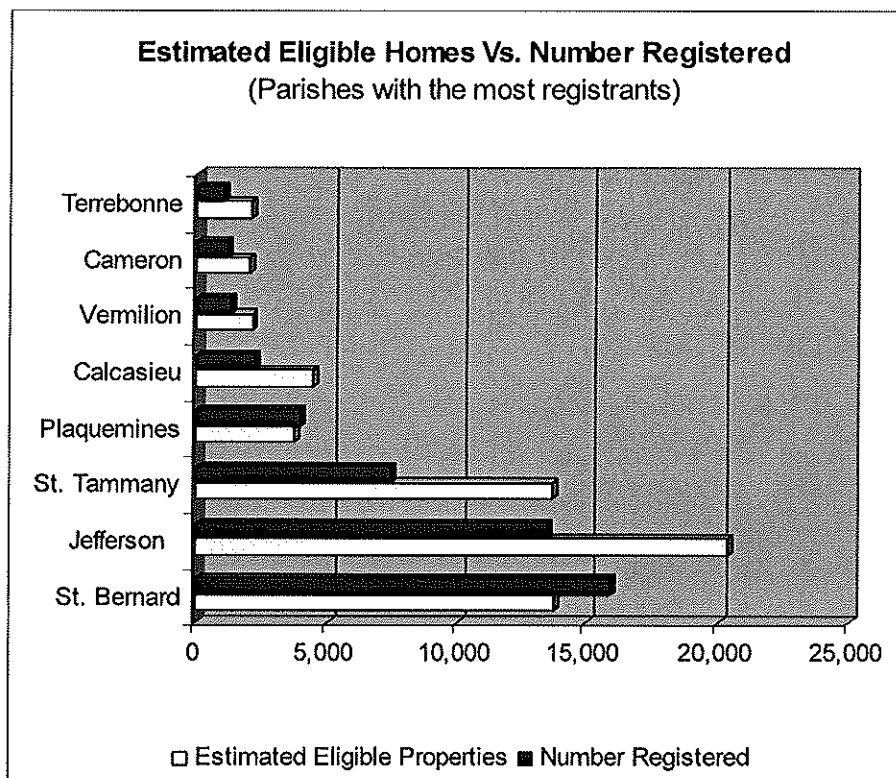
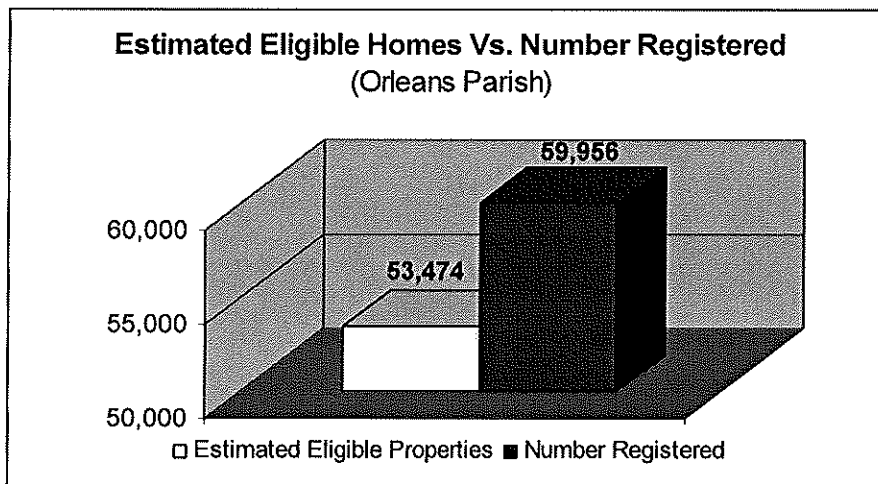


# The Road Home Registry Closout Report





# The Road Home Registry Closout Report



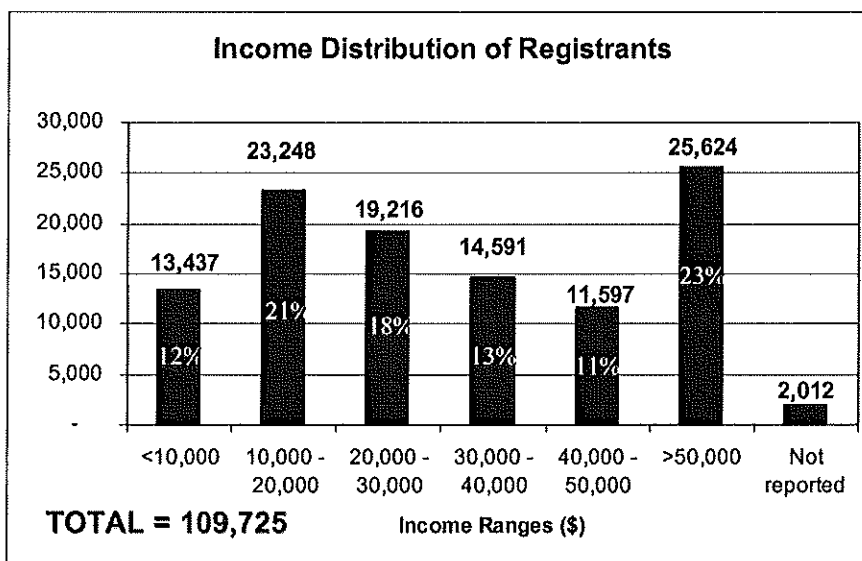
The Louisiana Recovery Authority, using data on individuals who registered for FEMA eligible assistance, estimated that over 122,000 properties received major or severe damage throughout the hurricane affected regions. These figures were compared to the total number of registrants in eight parishes with the greatest concentrations of affected properties.

In some cases, the number of registrants exceeded the estimated number of affected parishes. Orleans, St. Bernard, and Plaquemines fall within this category. Others, such as St. Tammany, Calcasieu and Jefferson had much lower levels of registrants than one would expect based on the estimated number of damaged properties.

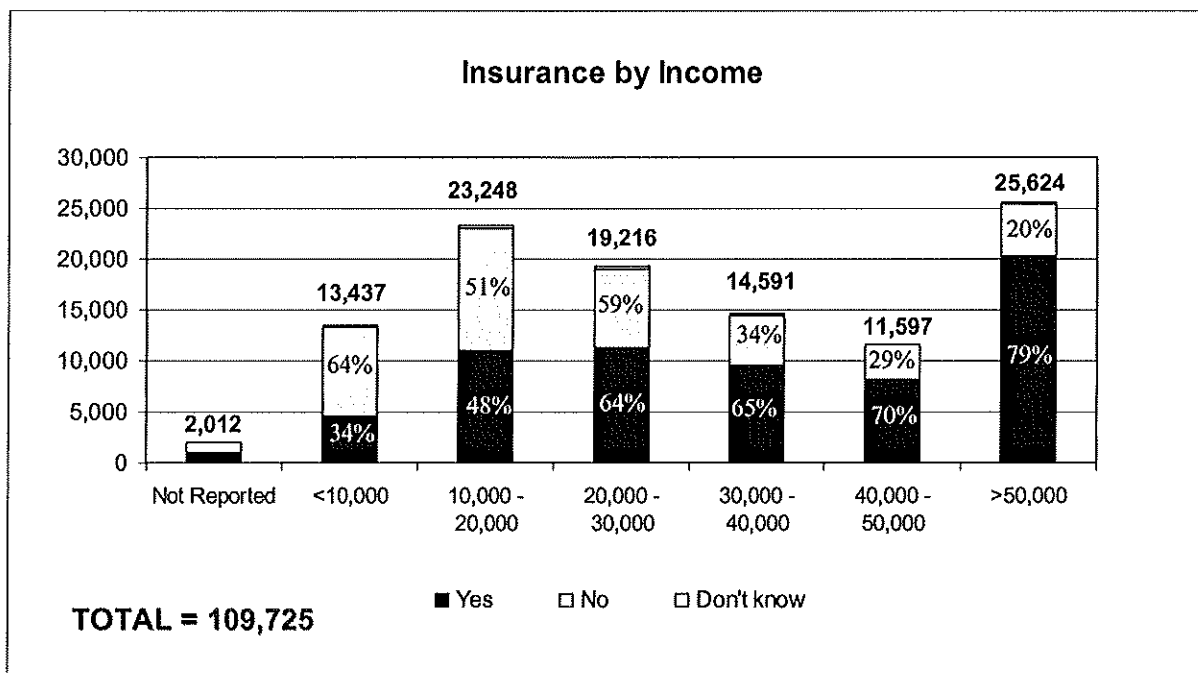




# The Road Home Registry Closout Report



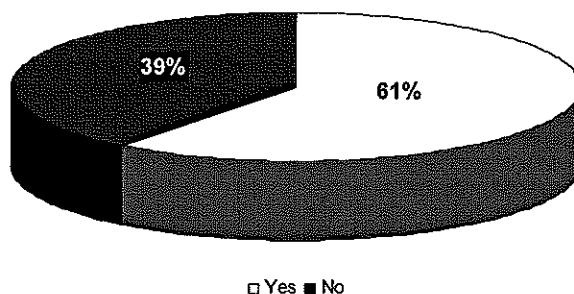
Of the 109,725 households that reported income, 74.8% of them earned at or below \$50,000 at the time of the hurricanes. Since this figure does not take into account household size and median income levels, this statistic does not indicate the distribution of low to moderate income households among the housing registrants.



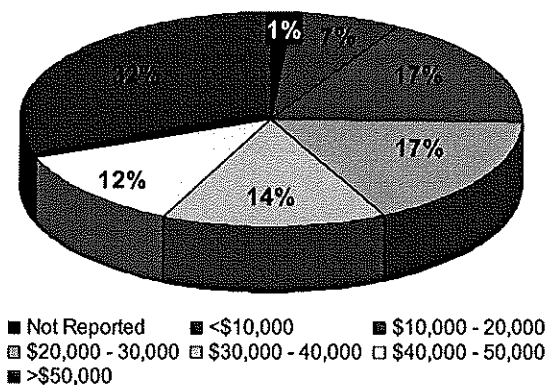
Approximately 60% of total registrants reported having flood insurance while 39% reported not having this type of insurance. Individuals at higher income ranges were more likely to have insurance when compared with those at the lower income brackets. For example, only 20% of those making greater than \$50,000 did not have insurance while 48% of those making between \$10,000 and \$20,000 did not have flood insurance.

# The Road Home Registry Closout Report

Registrants with Flood Insurance

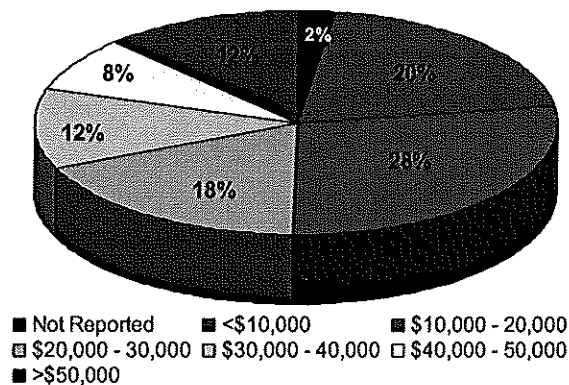


Income Distribution of Homeowners *with* Flood Insurance



TOTAL = 65,783

Income Distribution of Homeowners *without* Flood Insurance

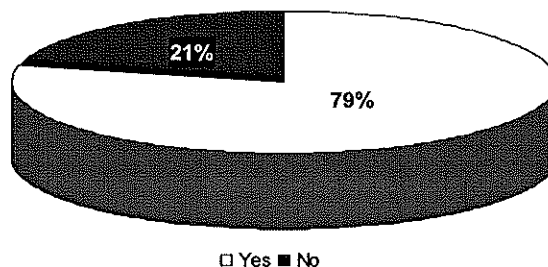


TOTAL = 42,859

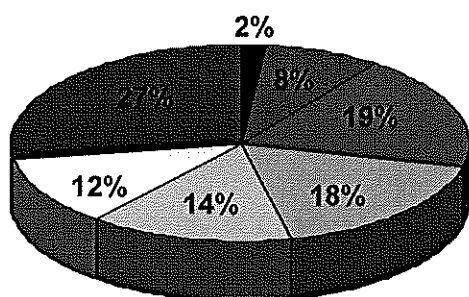
The income distribution of these responses shows that 68.8% of those that *had* flood insurance fell into income brackets at or below \$50,000. Contrast this with the 87.5% of homeowners that reported *not* having insurance. This trend shows that among registrants, those at lower income levels were much more likely to go without flood insurance on their residences.

# The Road Home Registry Closout Report

Registrants with Homeowner's Insurance



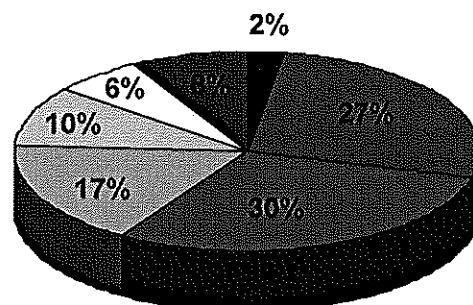
Income Distribution of Homeowners  
with Homeowner's Insurance



■ Not Reported    ■ <\$10,000    ■ \$10,000 - \$20,000  
 ■ \$20,000 - \$30,000    ■ \$30,000 - \$40,000    ■ \$40,000 - \$50,000  
 ■ >\$50,000

TOTAL = 86,214

Income Distribution of Homeowners  
without Homeowner's Insurance



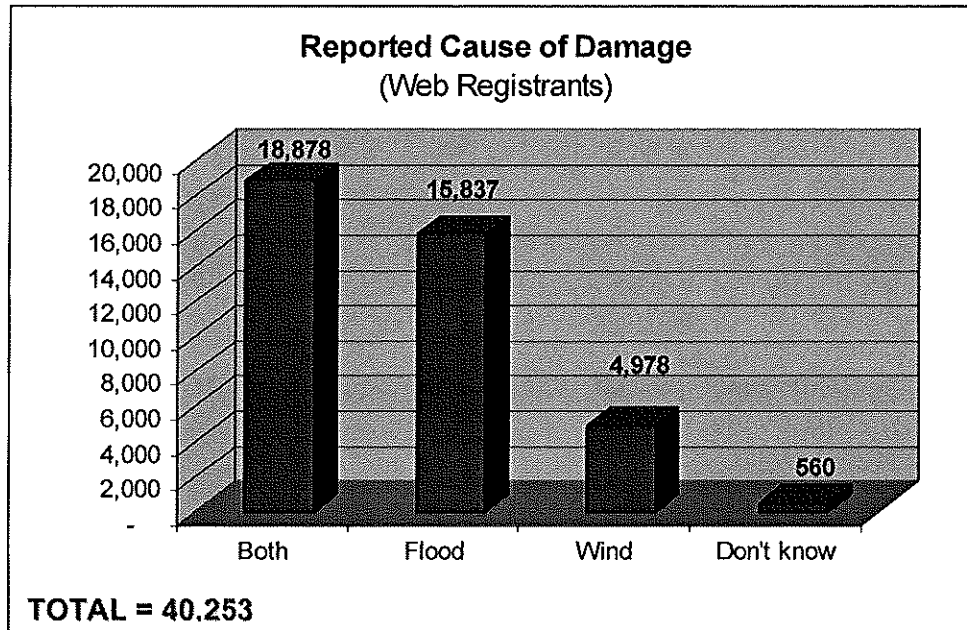
■ Not Reported    ■ <\$10,000    ■ \$10,000 - \$20,000  
 ■ \$20,000 - \$30,000    ■ \$30,000 - \$40,000    ■ \$40,000 - \$50,000  
 ■ >\$50,000

TOTAL = 22,982

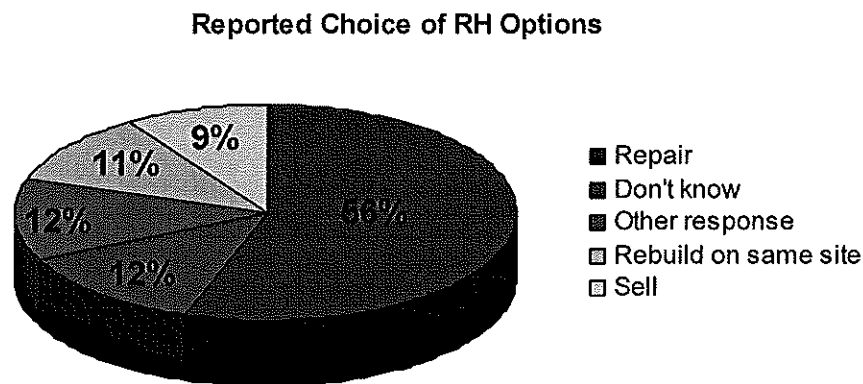
The income distribution of these responses shows that 70.9% of those that *had* homeowner's insurance fell into income brackets at or below \$50,000. In contrast, 89.3% of homeowners that reported *not* having insurance fell into this income range. As with the flood insurance variable, this trend shows that among registrants, those at lower income levels were much more likely to go without flood insurance on their residences.



# The Road Home Registry Closout Report

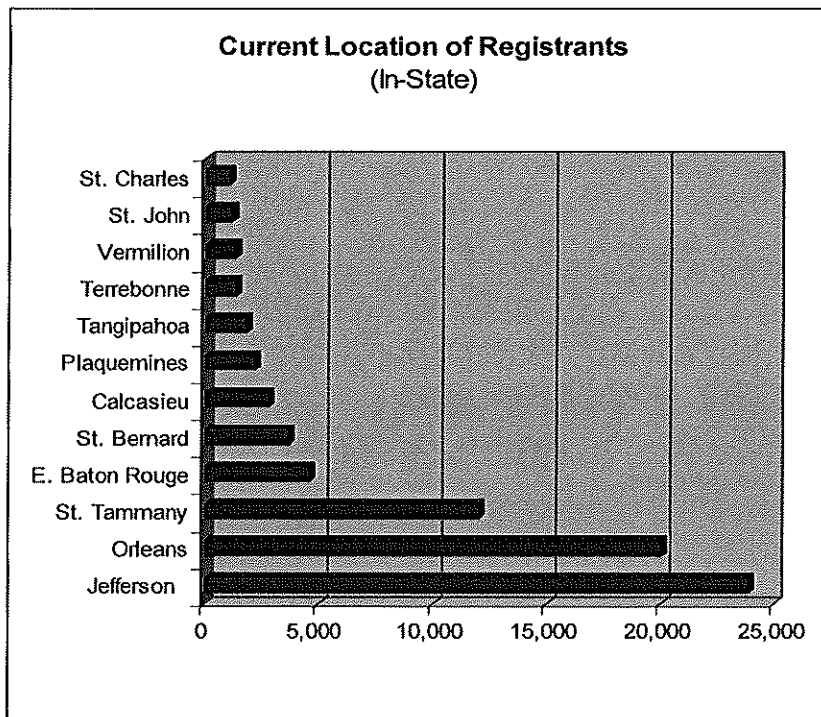


Among those who registered online, 47% reported receiving both flood and wind damage. About forty percent sustained only flood damage and 12% had only wind damage. However, these statistics mask significant spatial variation across the eight major parishes. For example, in both Cameron and Plaquemines parishes, approximately three-fourths of the damaged residences in the subset of web registrants sustained both flood and wind damage, while Orleans parish had almost half fall in this category. On the other hand, Calcasieu had the highest proportion, three-fourths, of wind-damaged properties. Vermilion parish in contrast had concentrated flood damage with nearly 70% of affected properties sustaining flood damage.

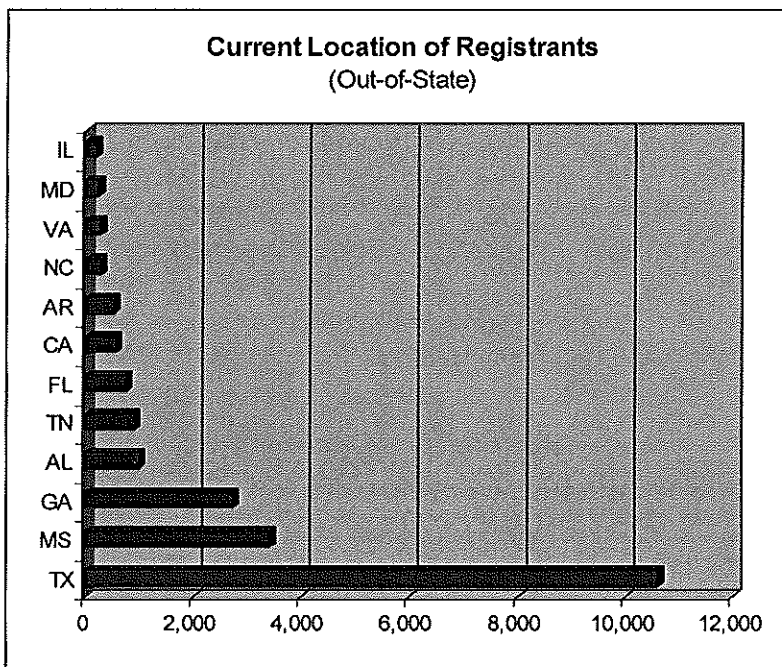


The majority, or 66% of web registrants that responded, indicated a desire to repair or rebuild on the same site. Only 9%, indicated that they would sell and relocate out of state.

# The Road Home Registry Closout Report



Many Louisiana residents who were affected by the hurricanes, evacuated and resettled in surrounding parishes. A total of 85,184 registrants fall within this category. The remaining 23,491 of those who registered currently live out of state. The majority of those residing out of state or 45% live in Texas while other large concentrations of Louisianans are found in Mississippi and Georgia.

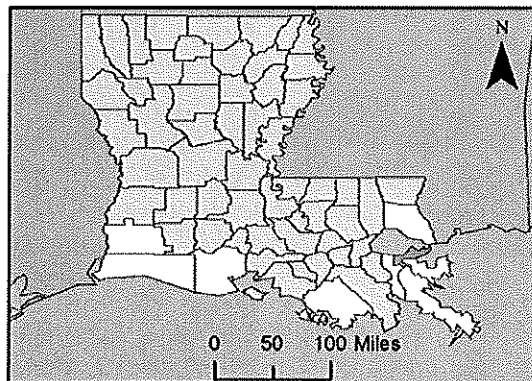


# The Road Home Registry Closout Report

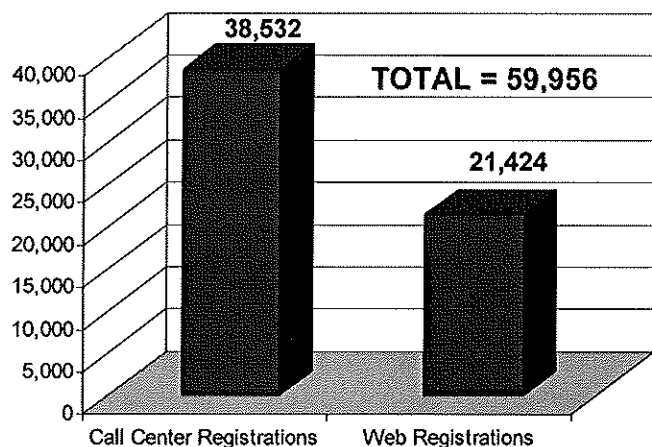
## ORLEANS PARISH

### Disclaimer

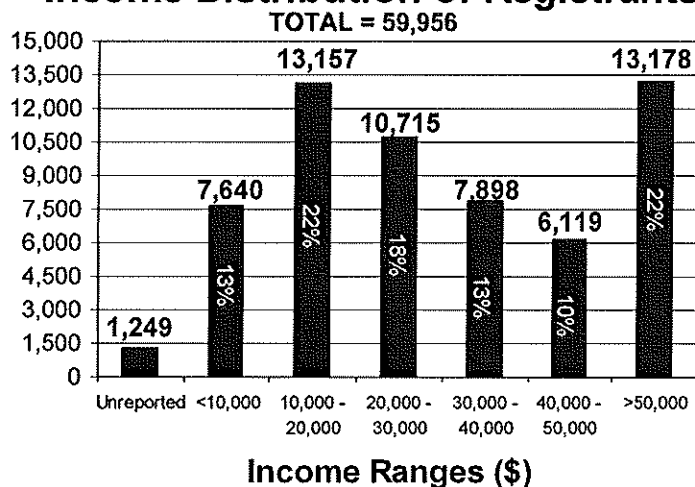
Caution should be used when interpreting the data and analyses in this report. Registry data yield only preliminary indications of the demographics and locations of potential Road Home applicants and the decisions they **may** make as they rebuild their lives.



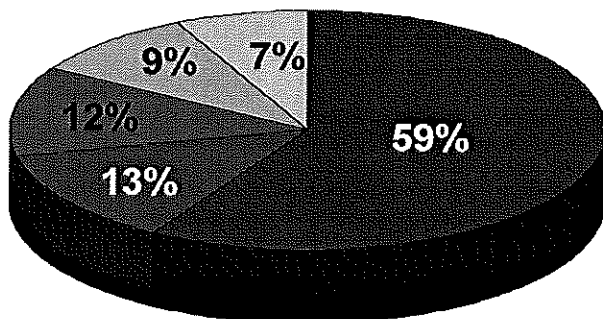
### Registration Type



### Income Distribution of Registrants

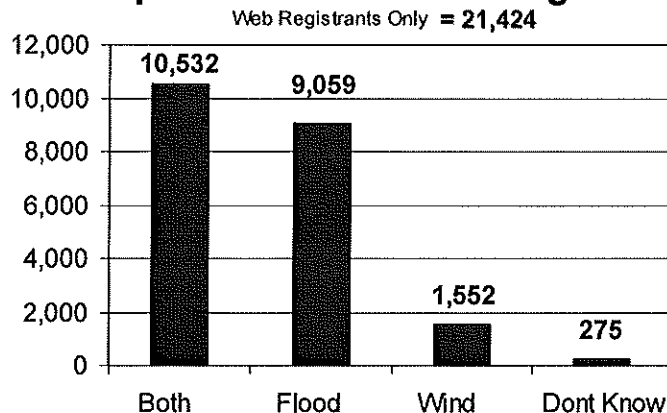


### Reported Choice of Road Home Options



- I WANT TO REPAIR THE HOME
- I WANT TO TEAR DOWN THE HOME AND REBUILD IT ON THE SAME SITE
- I DO NOT KNOW
- I WANT TO SELL THE HOME
- OTHER

### Reported Cause of Damage

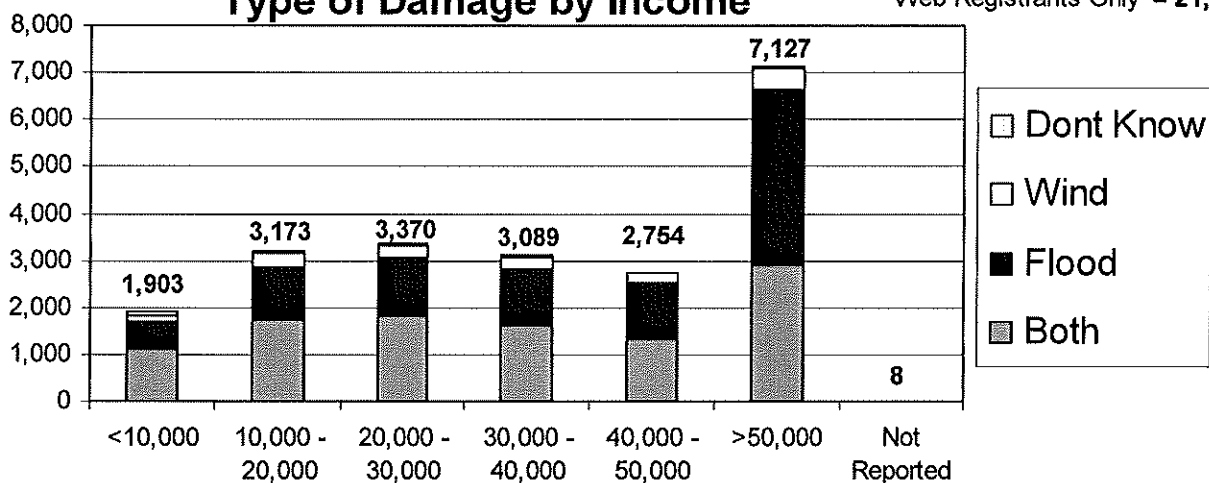


# The Road Home Registry Closout Report

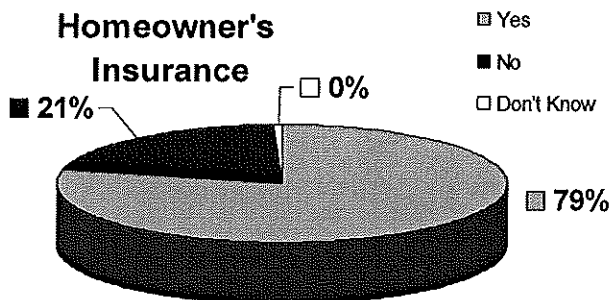
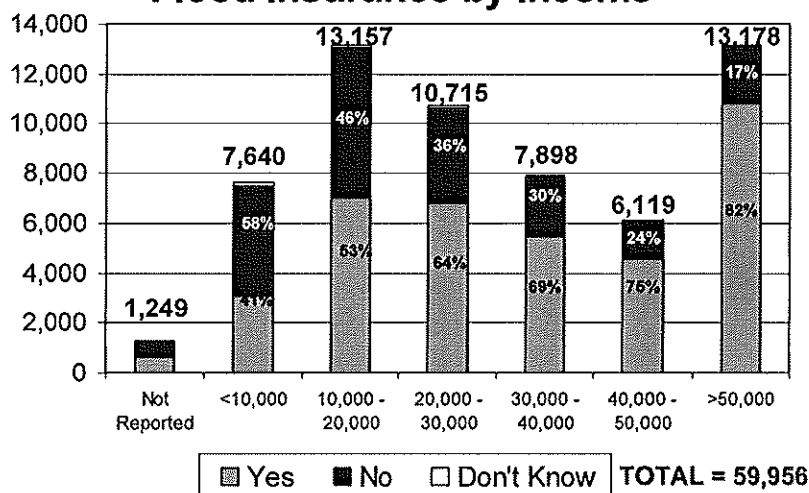
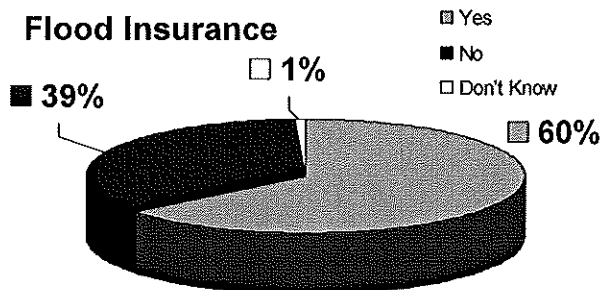
## ORLEANS PARISH

### Type of Damage by Income

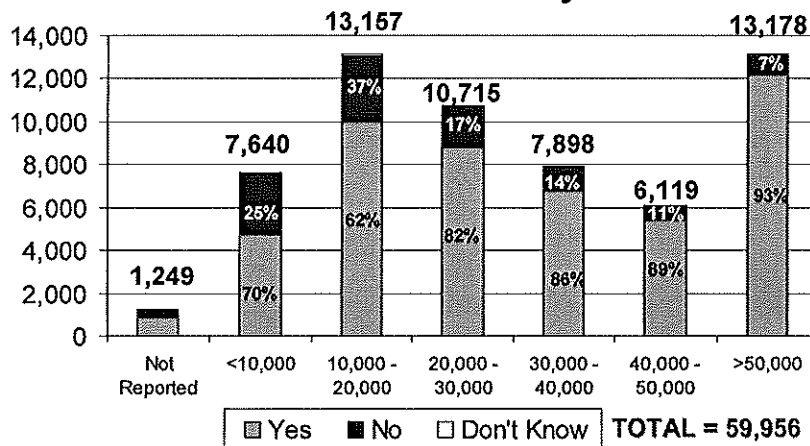
\* Web Registrants Only = 21,424



### Flood Insurance by Income



### Homeowner's Insurance by Income

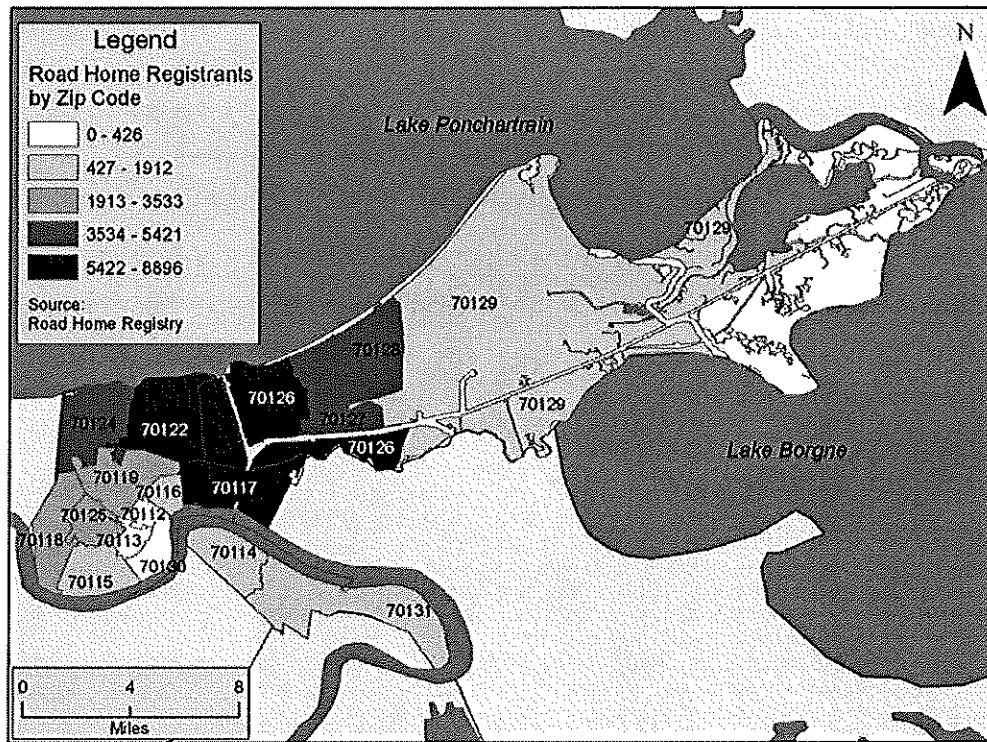
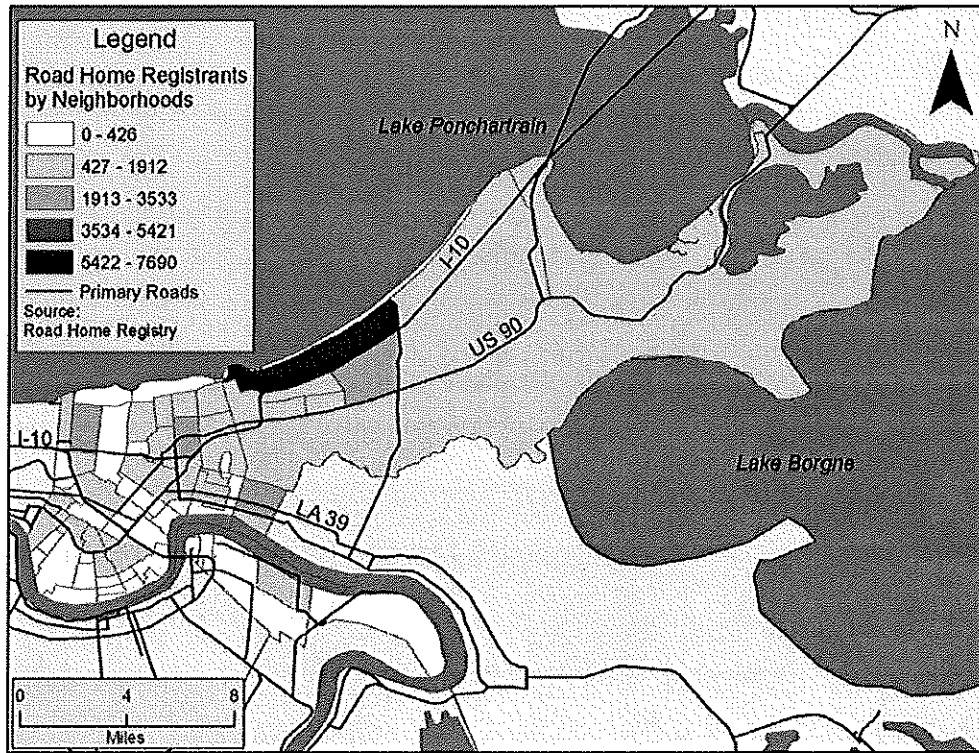


Policy  
and  
Reporting  
Section



# The Road Home Registry Closout Report

## ORLEANS PARISH



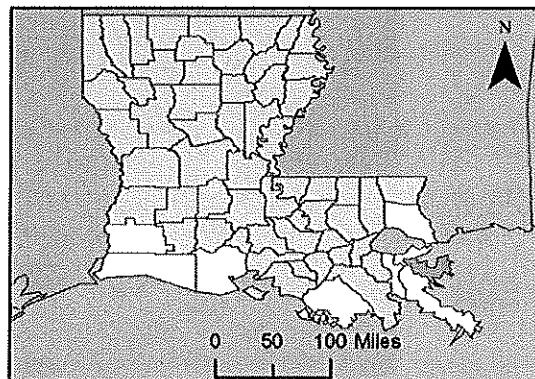


# The Road Home Registry Closout Report

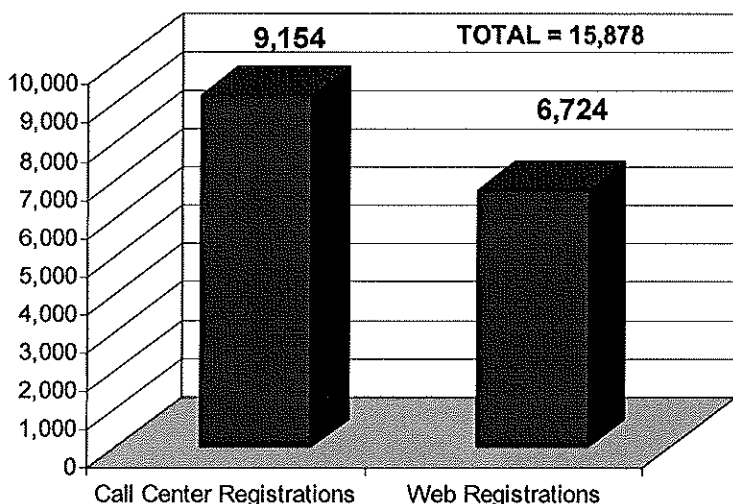
## ST. BERNARD PARISH

### Disclaimer

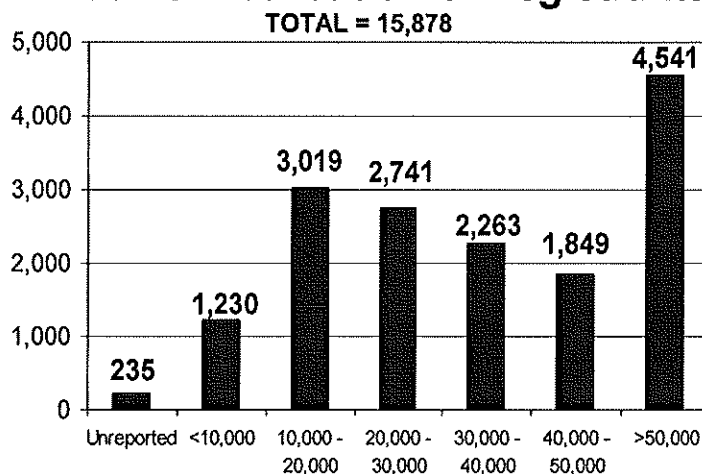
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### Registration Type

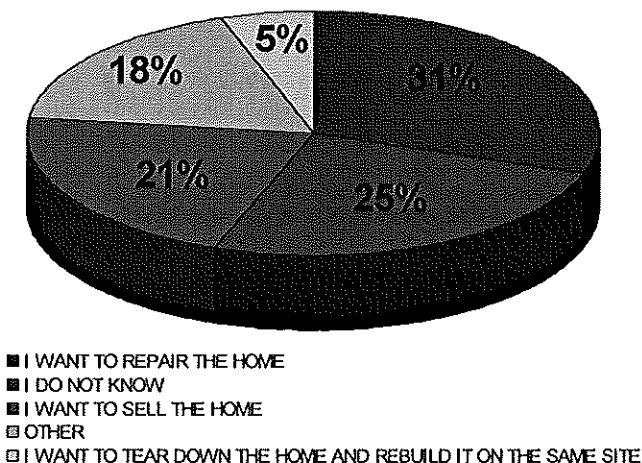


### Income Distribution of Registrants

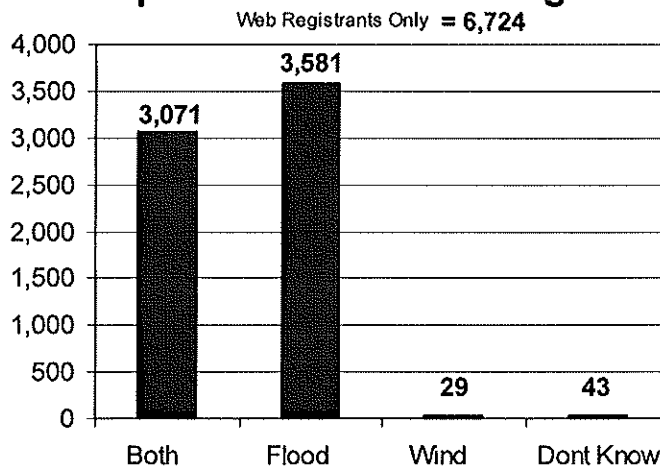


### Income Ranges (\$)

### Reported Choice of Road Home Options



### Reported Cause of Damage

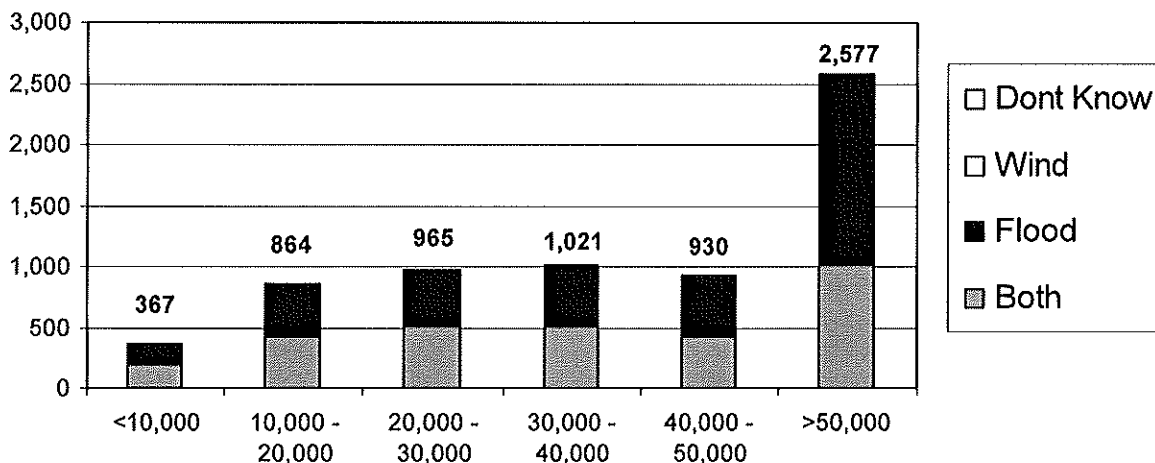


# The Road Home Registry Closout Report

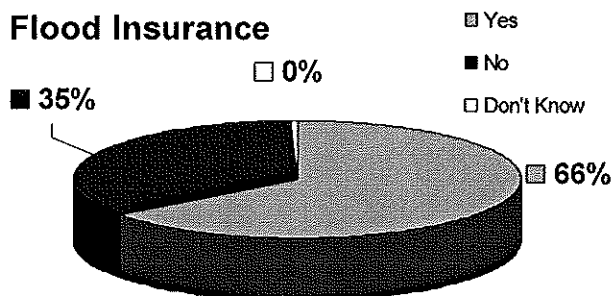
## ST. BERNARD PARISH

### Type of Damage by Income

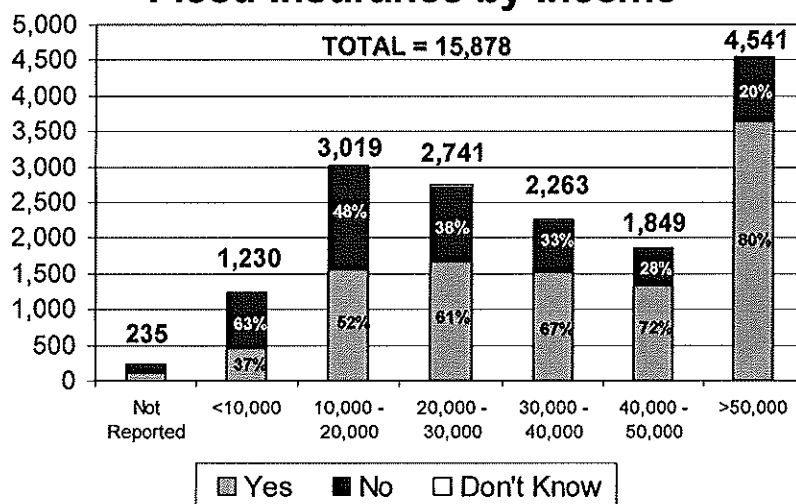
\* Web Registrants Only = 6,724



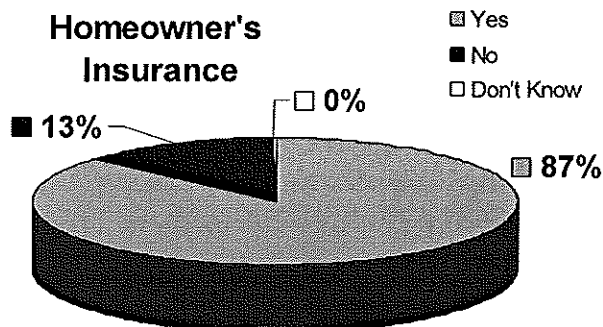
### Flood Insurance



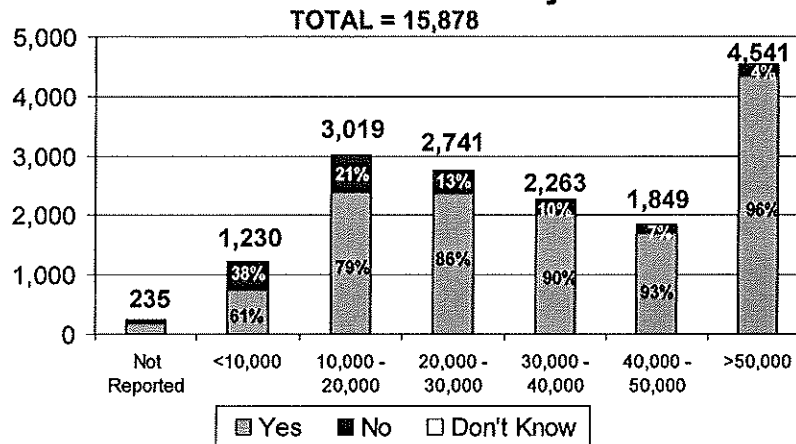
### Flood Insurance by Income



### Homeowner's Insurance



### Homeowner's Insurance by Income

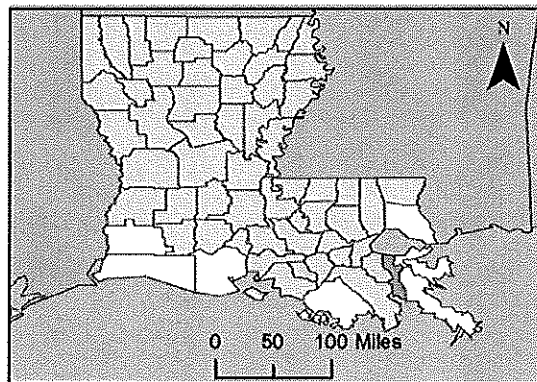


# The Road Home Registry Closout Report

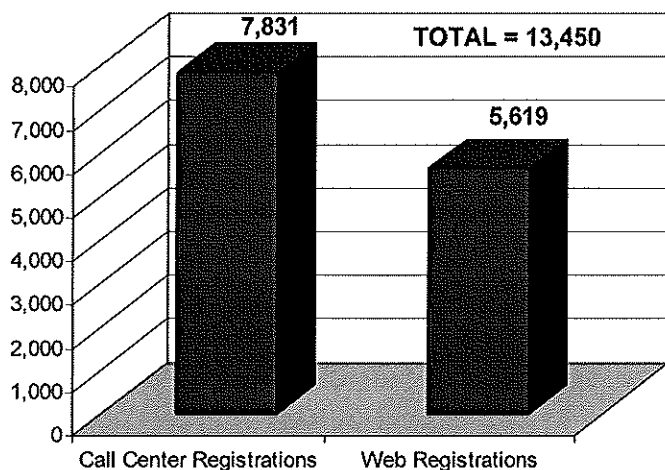
## JEFFERSON PARISH

### Disclaimer

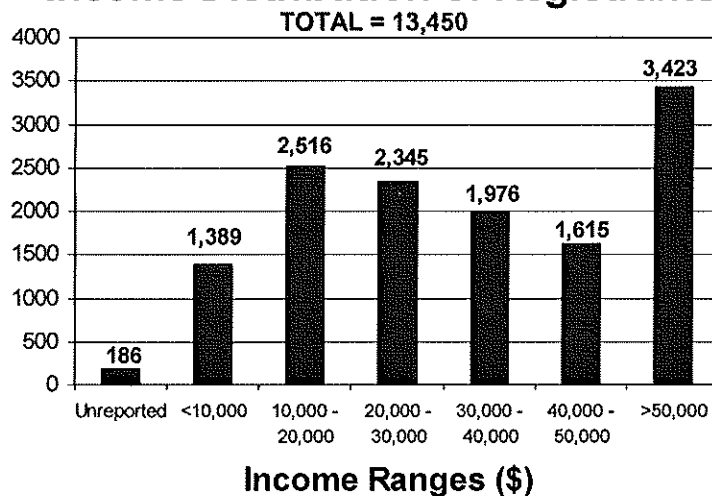
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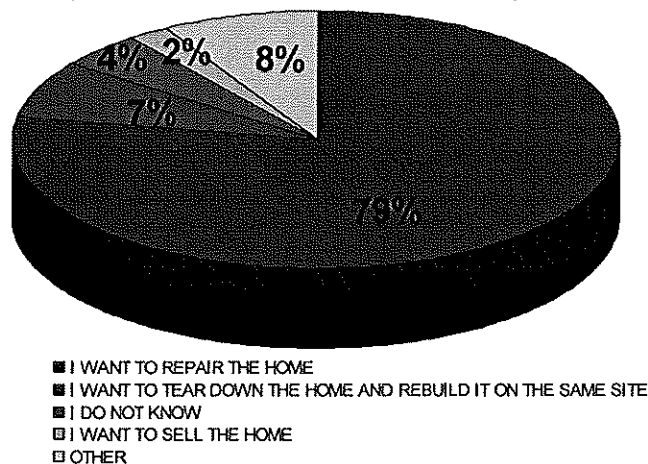
### Registration Type



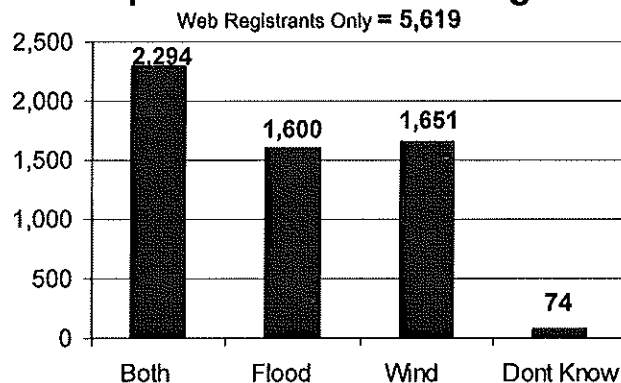
### Income Distribution of Registrants



### Reported Choice of Road Home Options



### Reported Cause of Damage

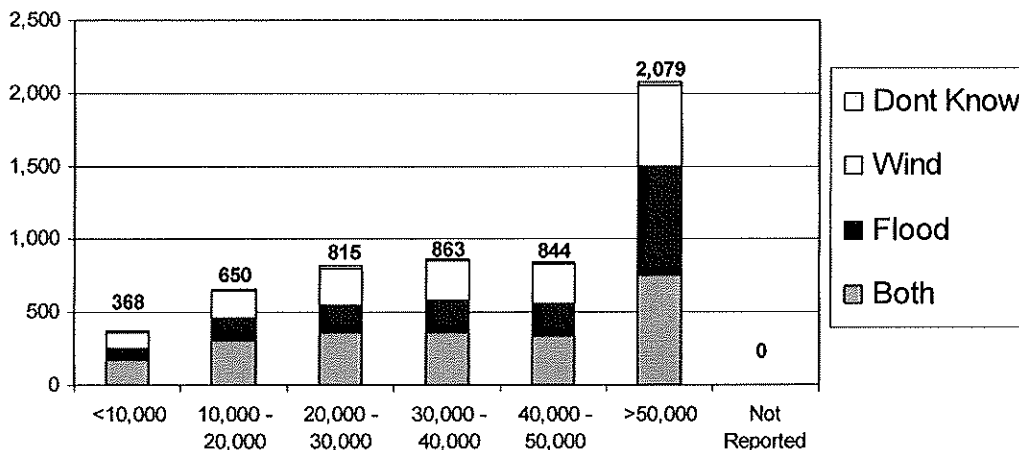


# The Road Home Registry Closout Report

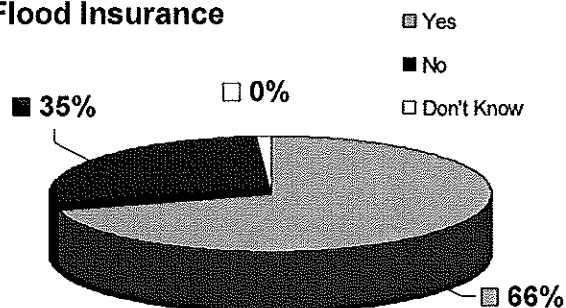
## JEFFERSON PARISH

### Type of Damage by Income

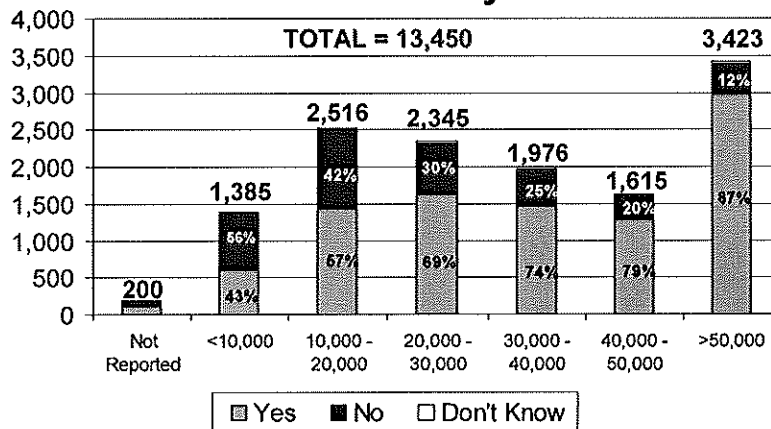
\* Web Registrants Only = 5,619



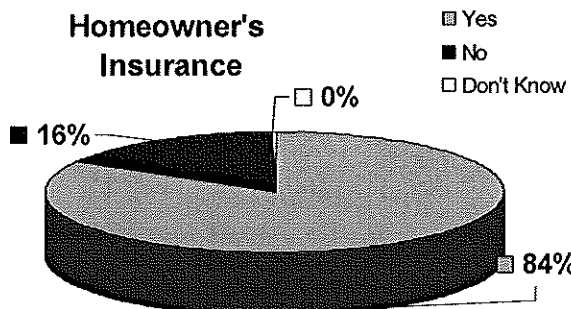
### Flood Insurance



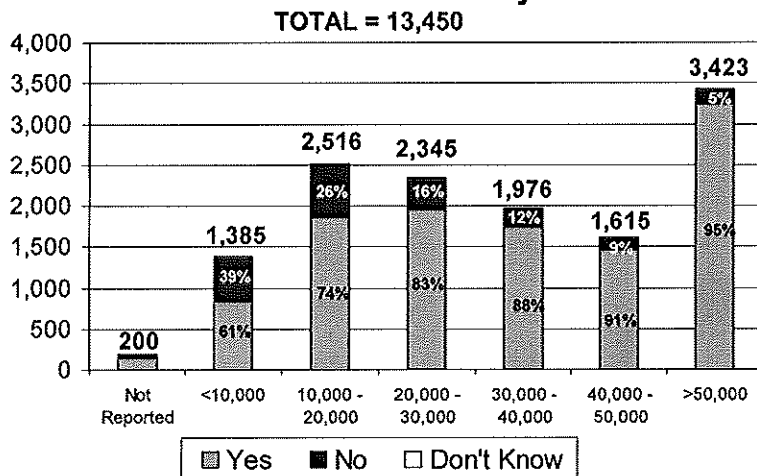
### Flood Insurance by Income



### Homeowner's Insurance



### Homeowner's Insurance by Income

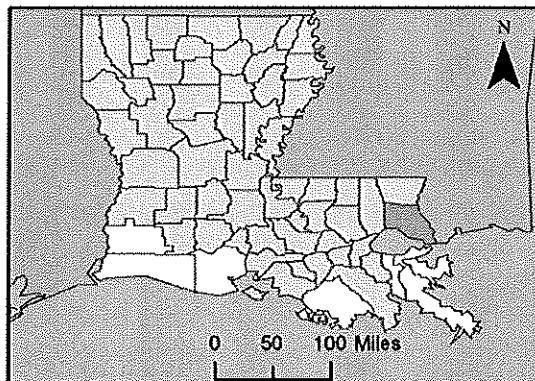


# The Road Home Registry Closout Report

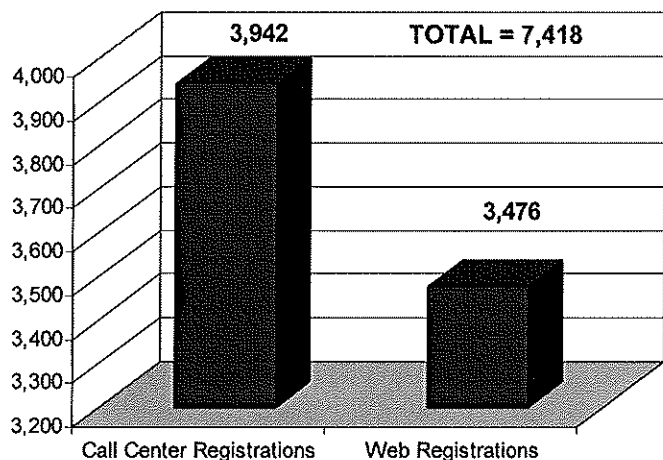
## ST. TAMMANY PARISH

### Disclaimer

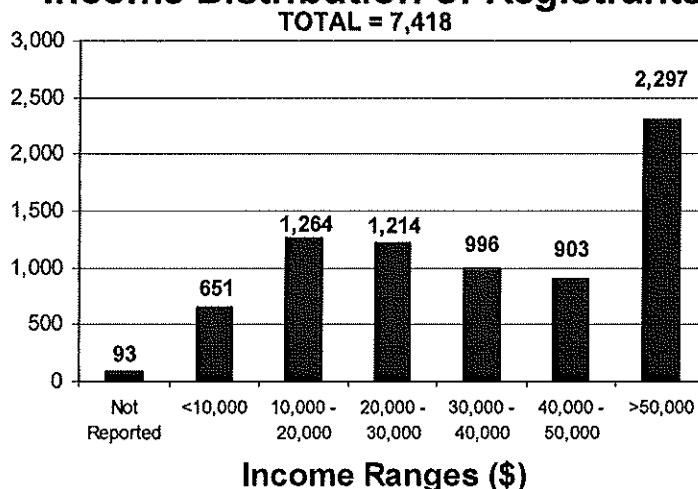
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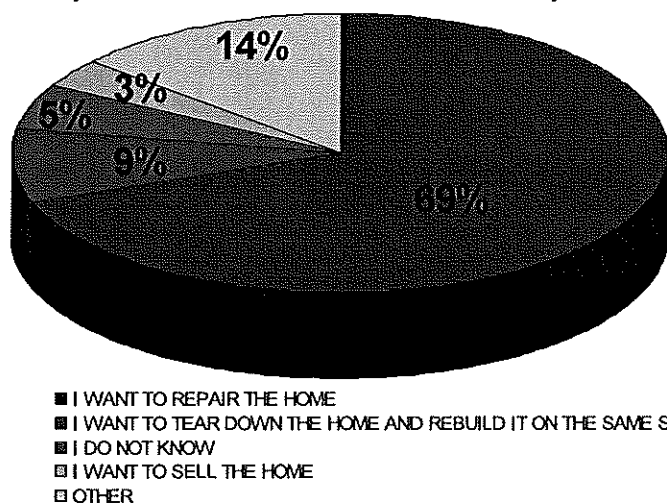
### Registration Type



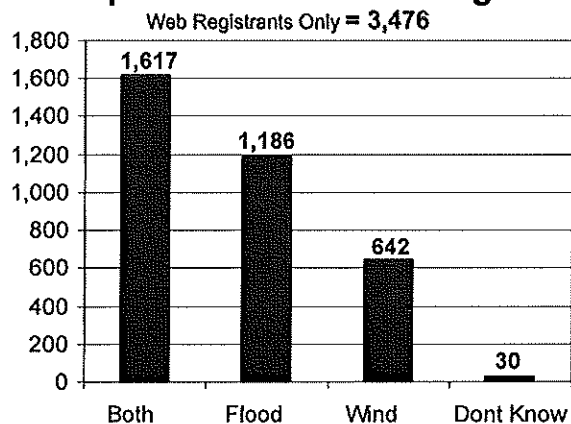
### Income Distribution of Registrants



### Reported Choice of Road Home Options



### Reported Cause of Damage

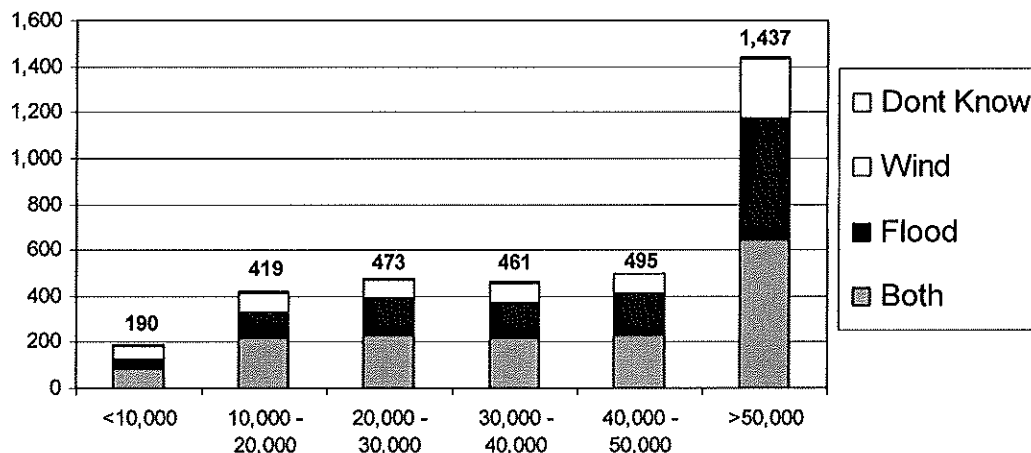


# The Road Home Registry Closout Report

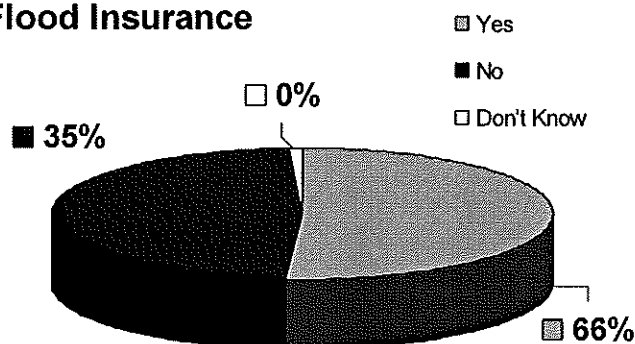
## ST. TAMMANY PARISH

### Type of Damage by Income

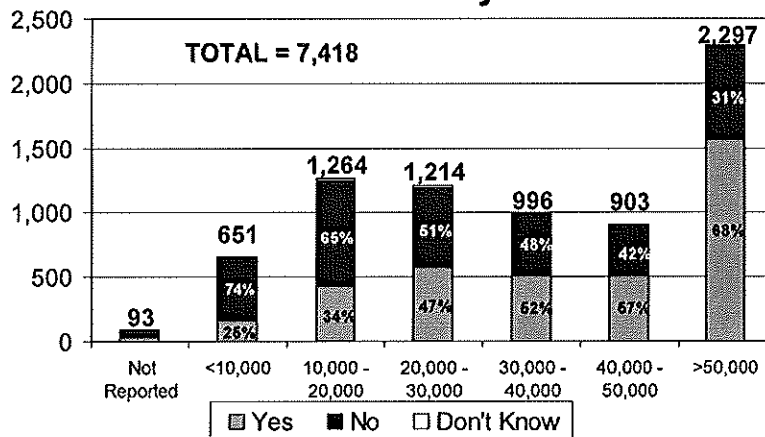
\* Web Registrants Only = 3,476



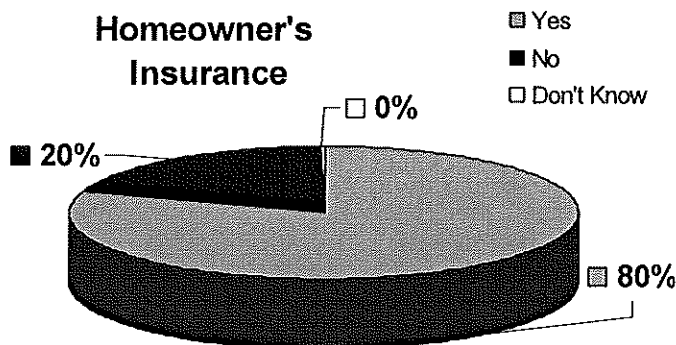
### Flood Insurance



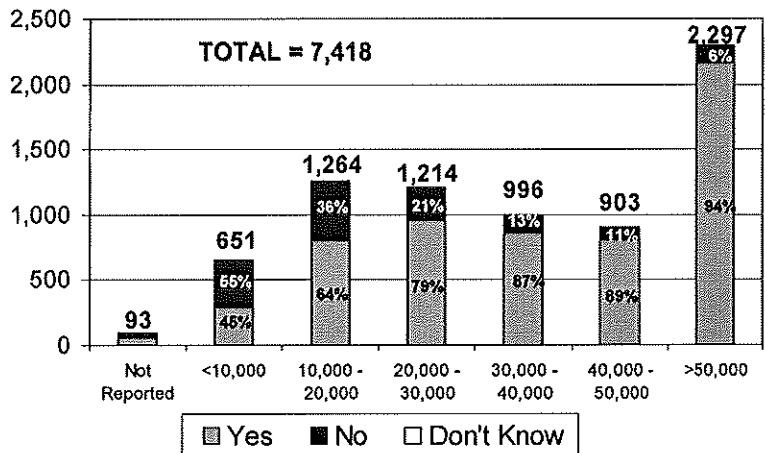
### Flood Insurance by Income



### Homeowner's Insurance



### Homeowner's Insurance by Income

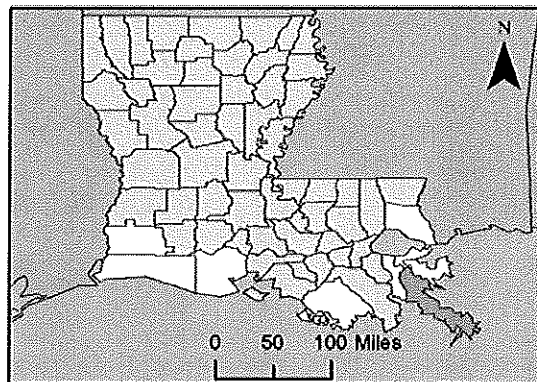


# The Road Home Registry Closout Report

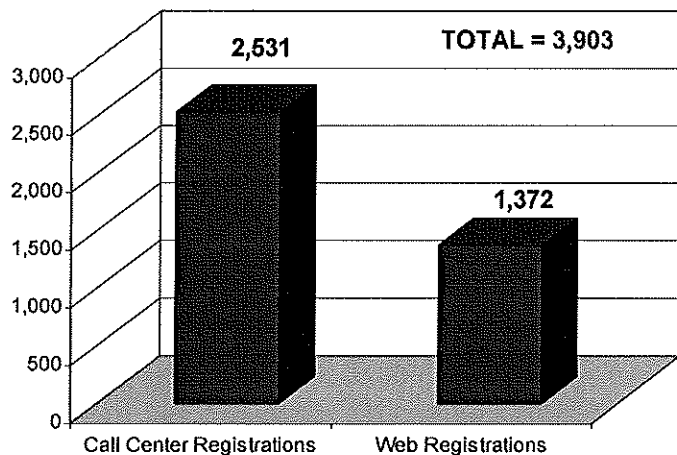
## PLAQUEMINES PARISH

### Disclaimer

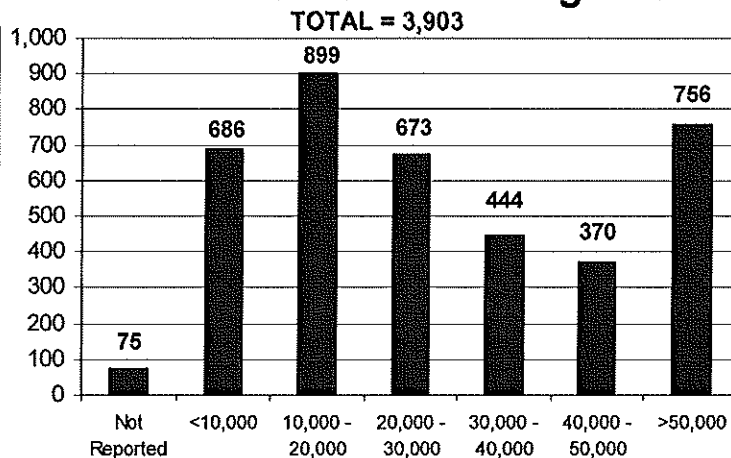
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### Registration Type

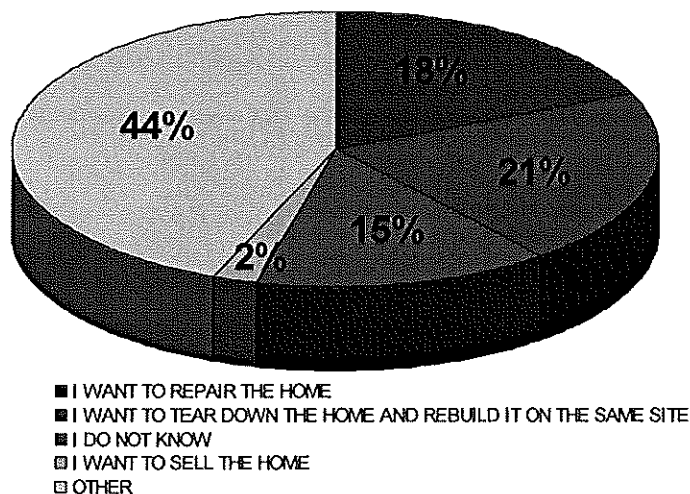


### Income Distribution of Registrants

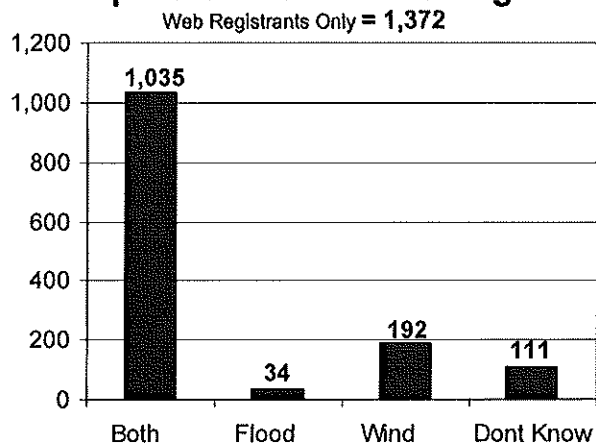


### Income Ranges (\$)

### Reported Choice of Road Home Options



### Reported Cause of Damage

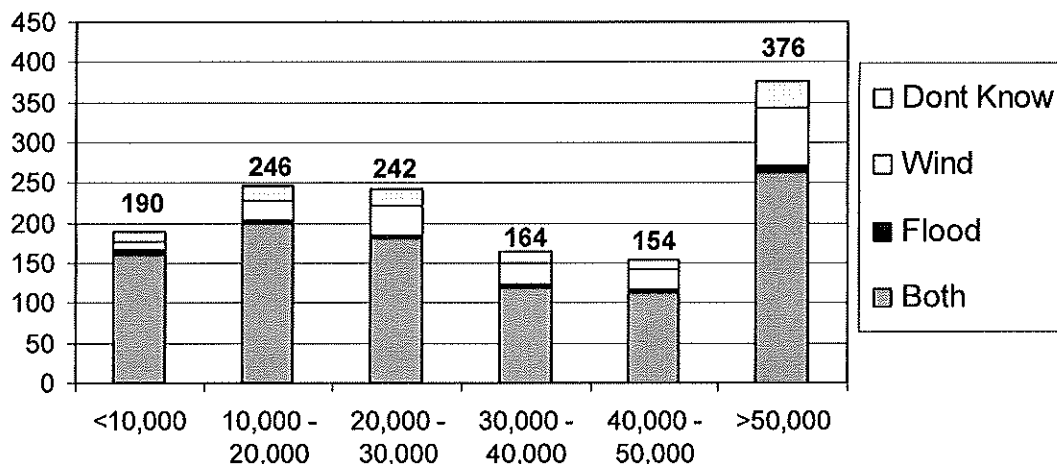


# The Road Home Registry Closout Report

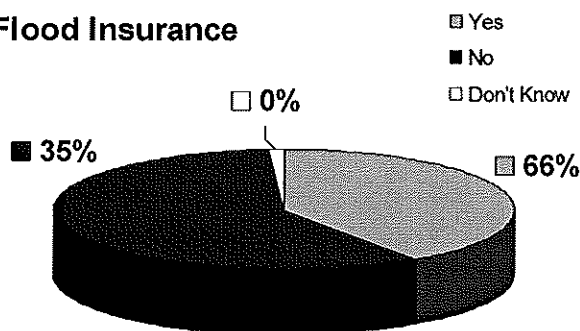
## PLAQUEMINES PARISH

### Type of Damage by Income

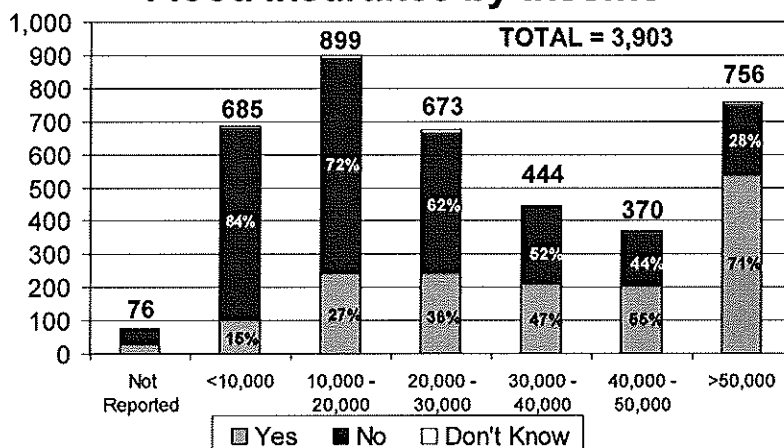
\* Web Registrants Only = 1,372



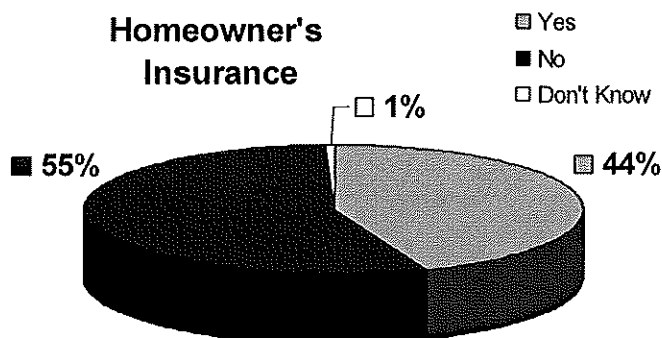
### Flood Insurance



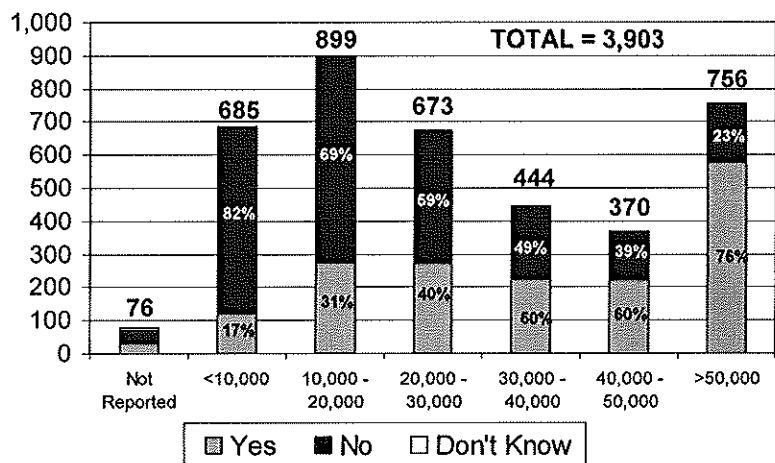
### Flood Insurance by Income



### Homeowner's Insurance



### Homeowner's Insurance by Income



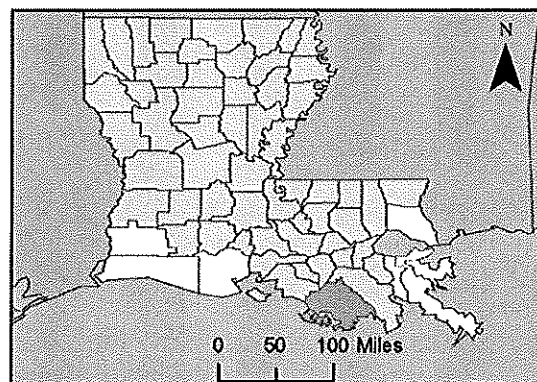


# The Road Home Registry Closout Report

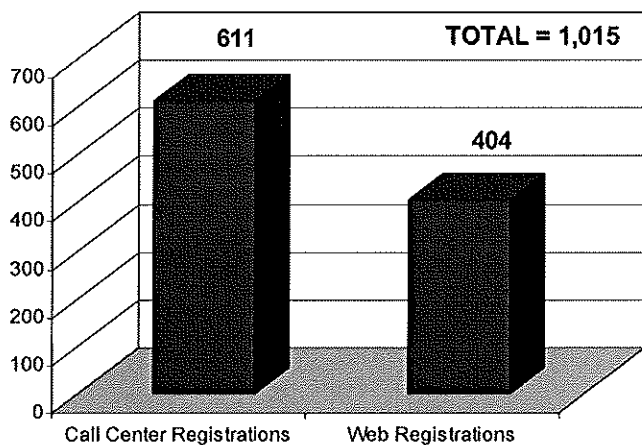
## TERREBONNE PARISH

### Disclaimer

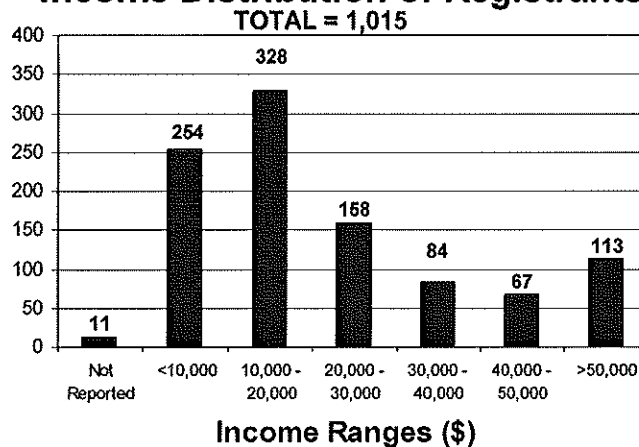
*Caution should be used when interpreting the data and analyses in this report. Registry data yield only preliminary indications of the demographics and locations of potential Road Home applicants and the decisions they **may** make as they rebuild their lives.*



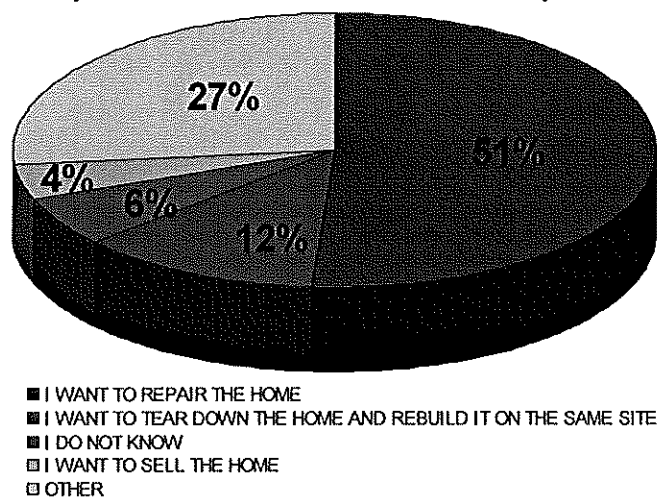
### Registration Type



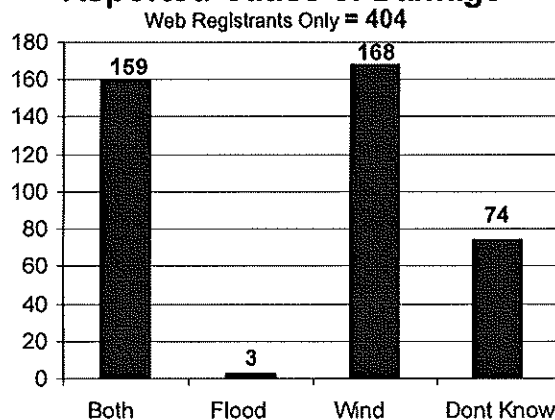
### Income Distribution of Registrants



### Reported Choice of Road Home Options



### Reported Cause of Damage

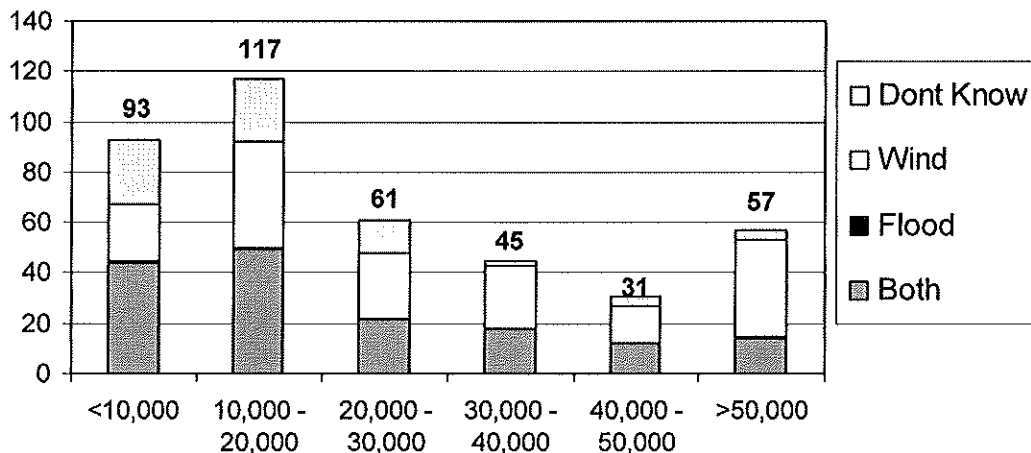


# The Road Home Registry Closout Report

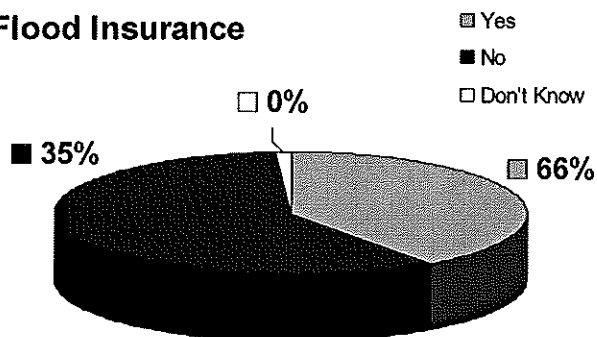
## TERREBONNE PARISH

### Type of Damage by Income

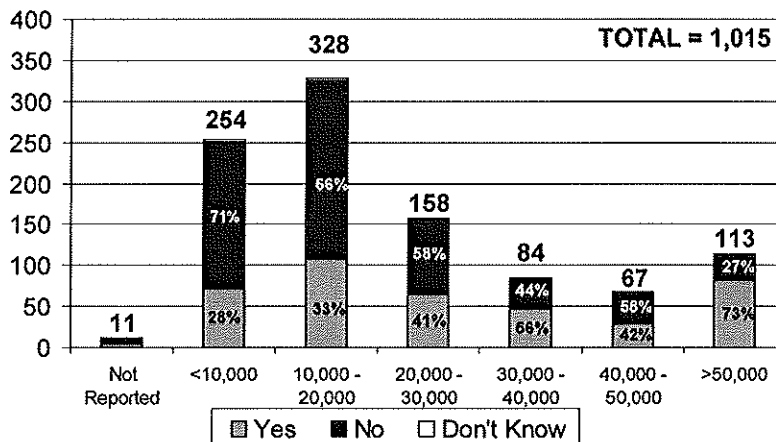
\* Web Registrants Only = 404



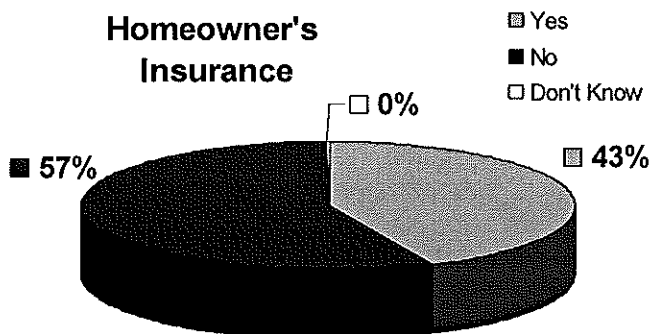
### Flood Insurance



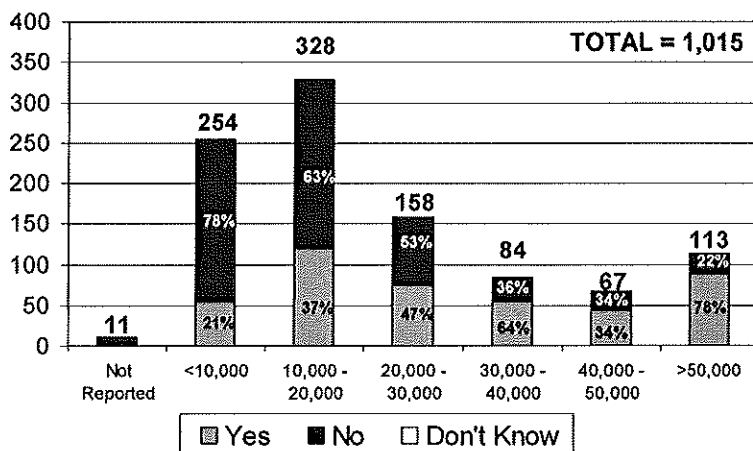
### Flood Insurance by Income



### Homeowner's Insurance



### Homeowner's Insurance by Income



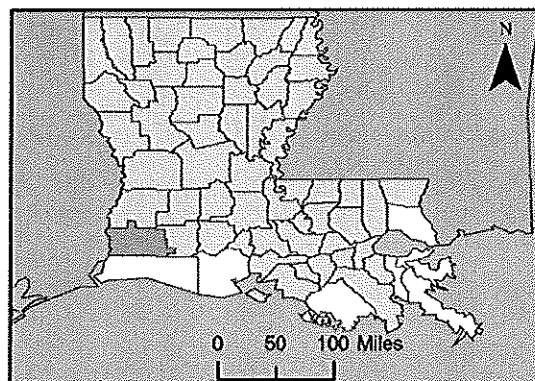
Policy  
and  
Reporting  
Section

# The Road Home Registry Closout Report

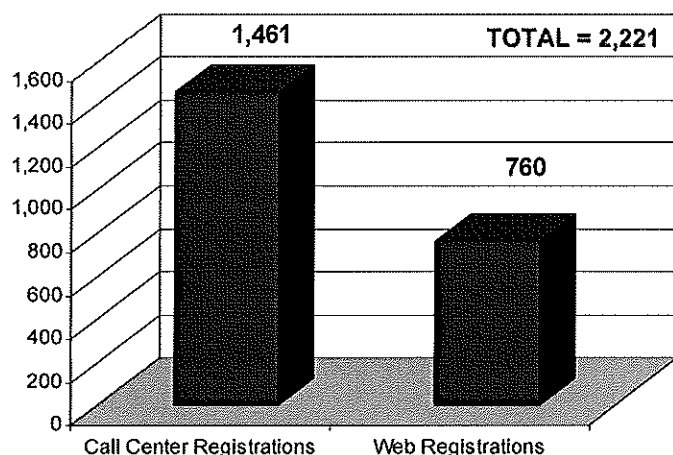
## CALCASIEU PARISH

### Disclaimer

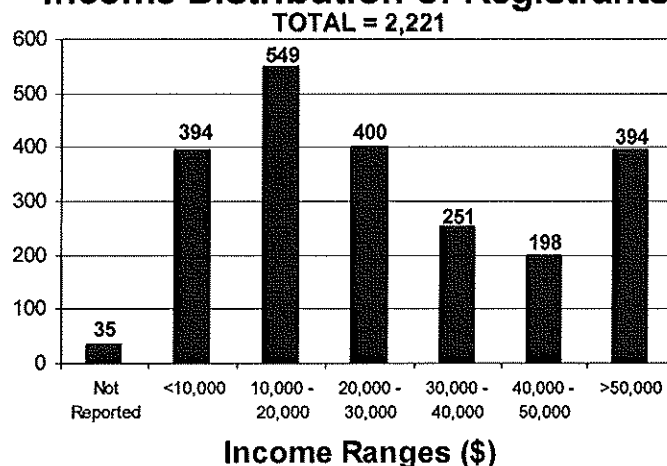
*Caution should be used when interpreting the data and analyses in this report. Registry data yield only preliminary indications of the demographics and locations of potential Road Home applicants and the decisions they **may** make as they rebuild their lives.*



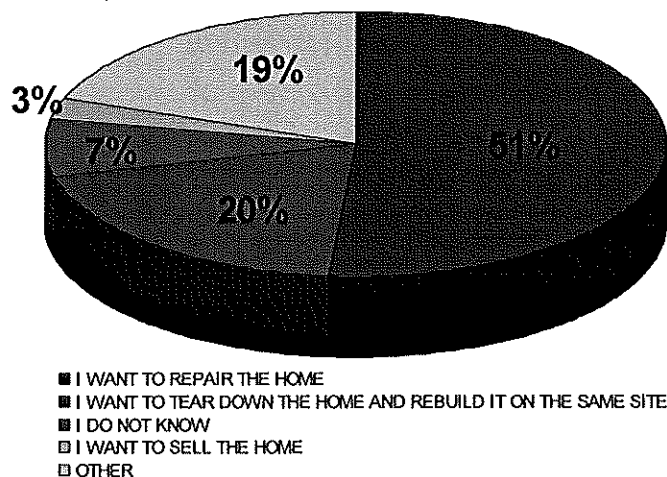
### Registration Type



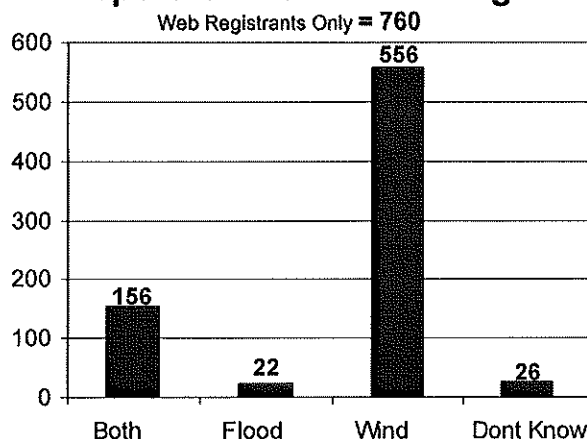
### Income Distribution of Registrants



### Reported Choice of Road Home Options



### Reported Cause of Damage

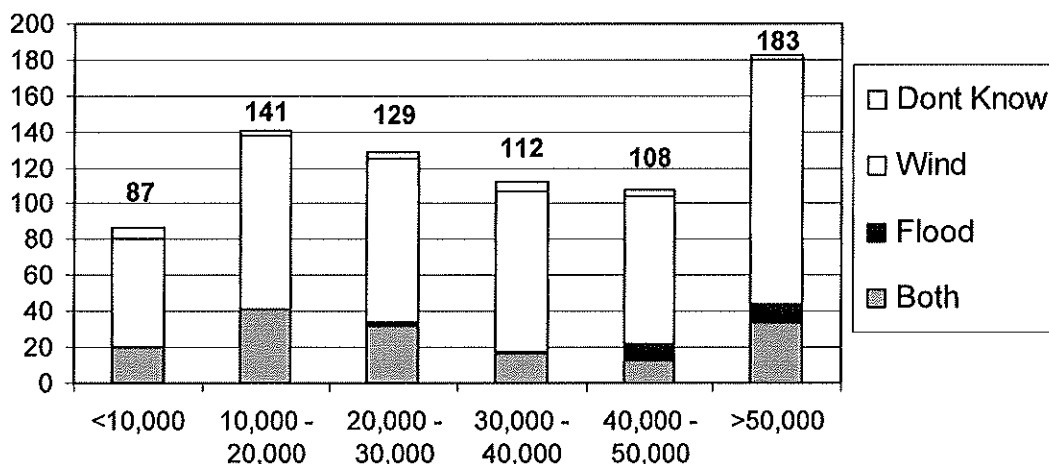


# The Road Home Registry Closout Report

## CALCASIEU PARISH

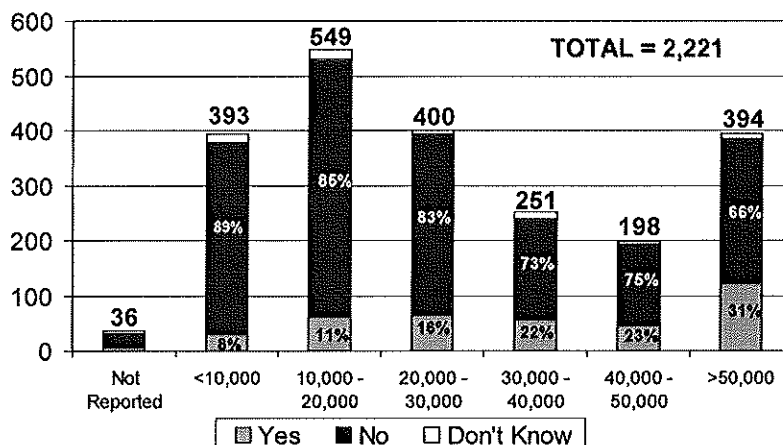
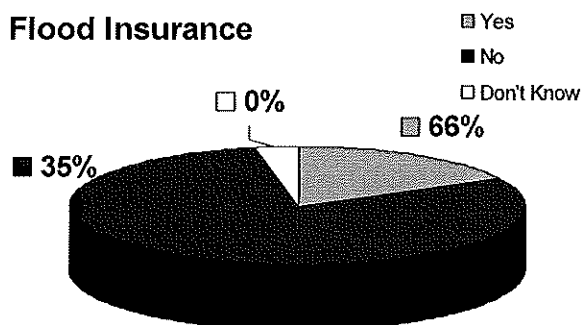
### Type of Damage by Income

\* Web Registrants Only = 760



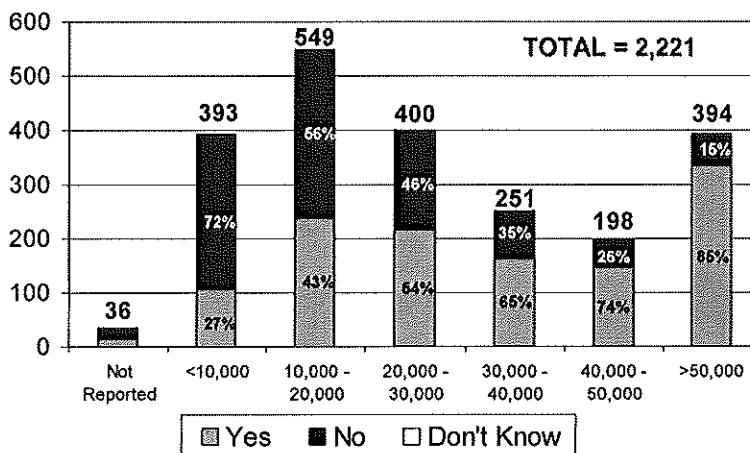
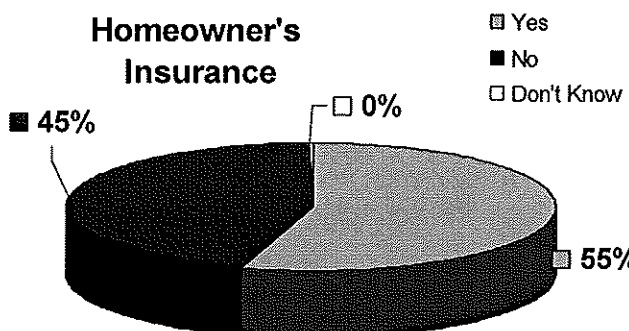
### Flood Insurance by Income

#### Flood Insurance



### Homeowner's Insurance by Income

#### Homeowner's Insurance

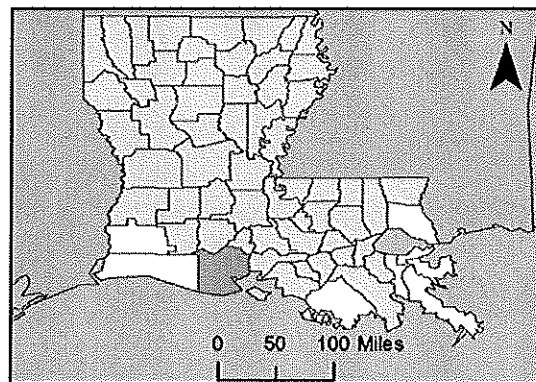


# The Road Home Registry Closout Report

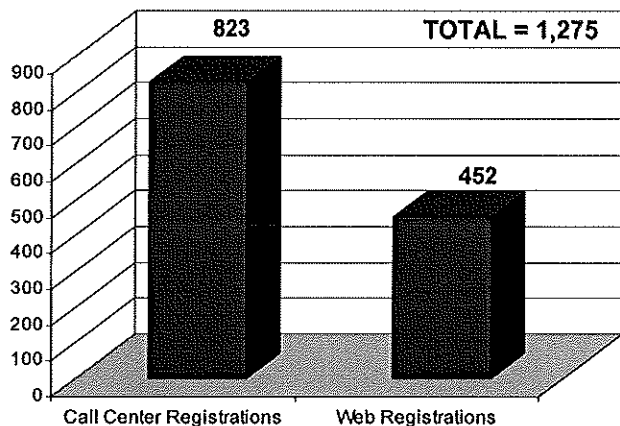
## VERMILION PARISH

### Disclaimer

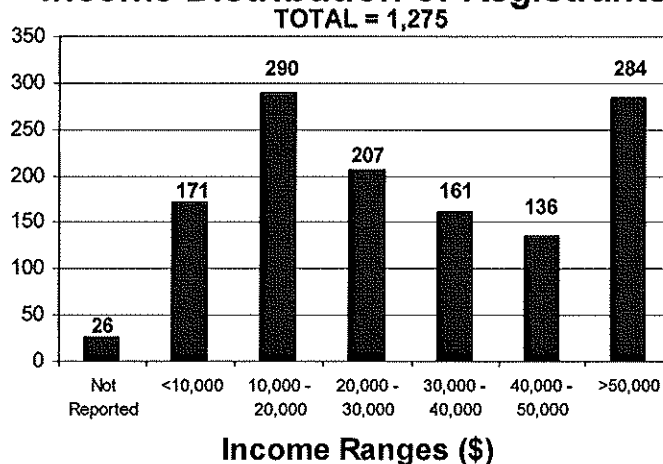
*Caution should be used when interpreting the data and analyses in this report. Registry data yield only preliminary indications of the demographics and locations of potential Road Home applicants and the decisions they **may** make as they rebuild their lives.*



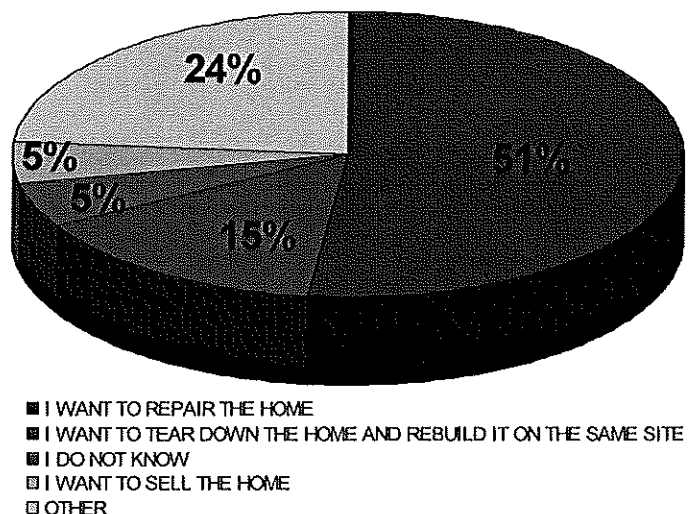
### Registration Type



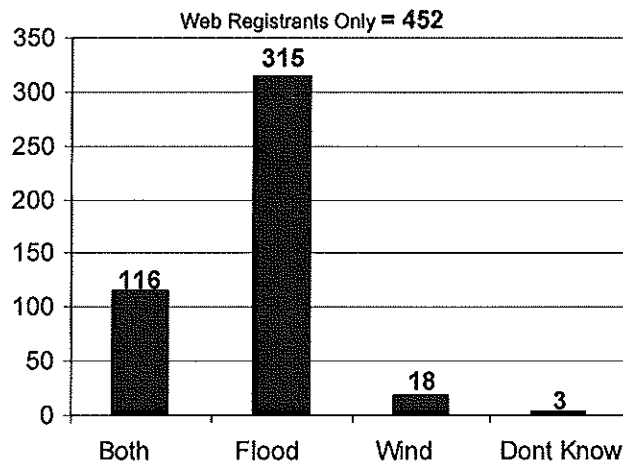
### Income Distribution of Registrants



### Reported Choice of Road Home Options



### Reported Cause of Damage

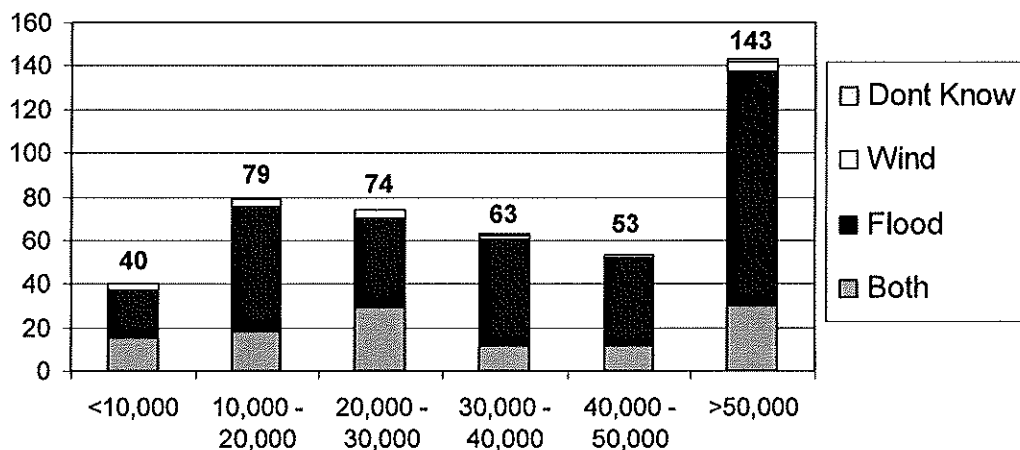


# The Road Home Registry Closout Report

## VERMILION PARISH

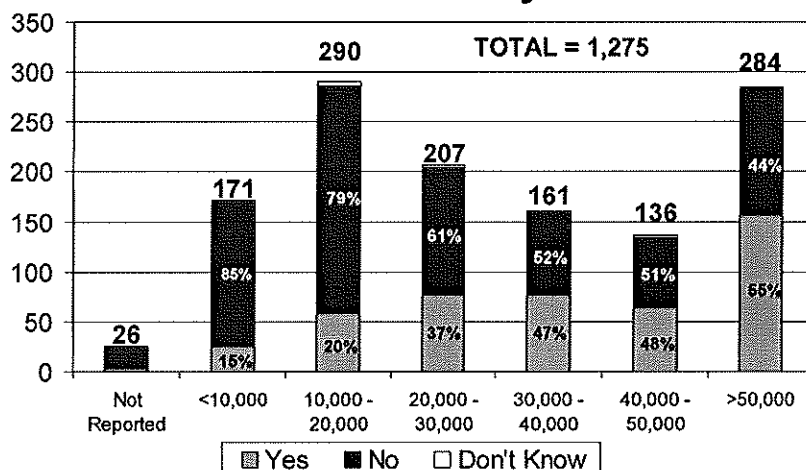
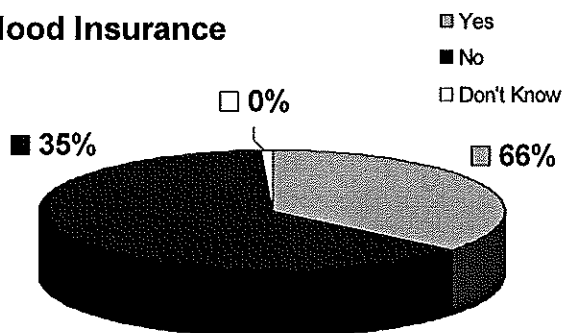
### Type of Damage by Income

\* Web Registrants Only = 452

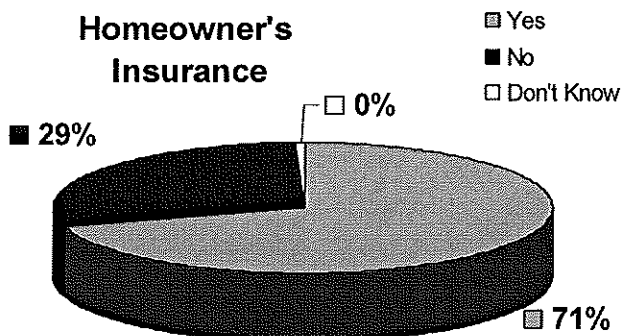


### Flood Insurance by Income

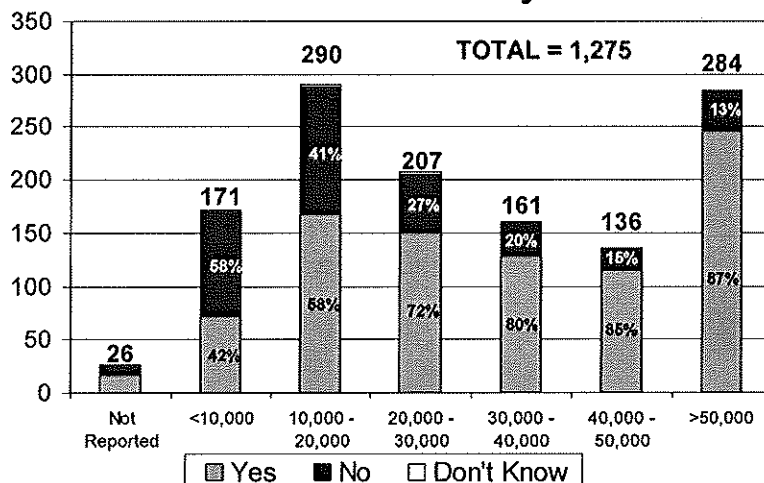
#### Flood Insurance



#### Homeowner's Insurance



### Homeowner's Insurance by Income

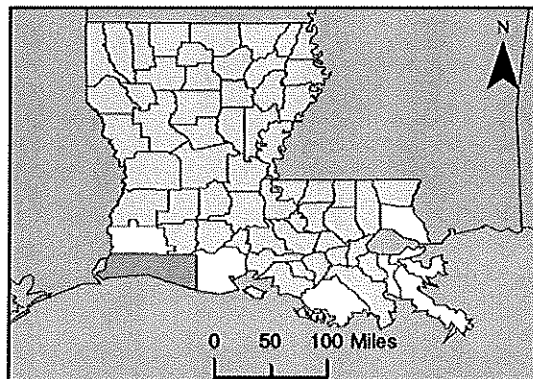


# The Road Home Registry Closout Report

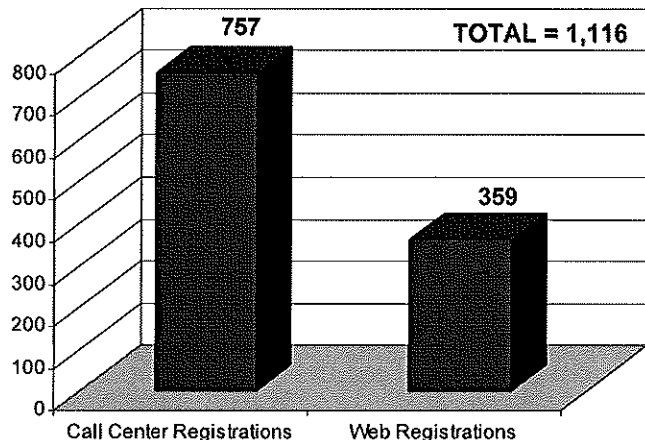
## CAMERON PARISH

### Disclaimer

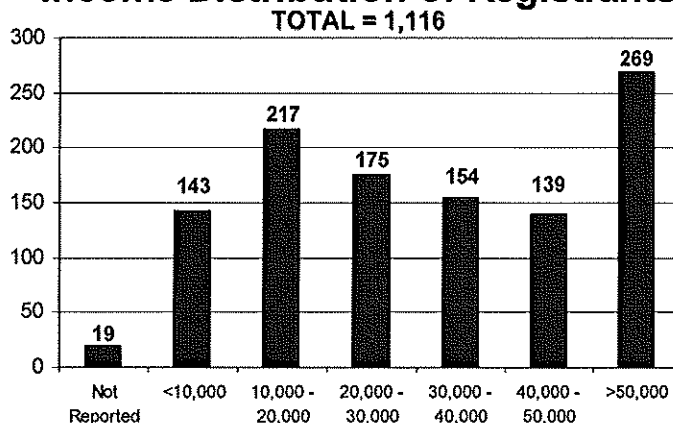
Caution should be used when interpreting the data and analyses in this report. Registry data yield only preliminary indications of the demographics and locations of potential Road Home applicants and the decisions they **may** make as they rebuild their lives.



### Registration Type

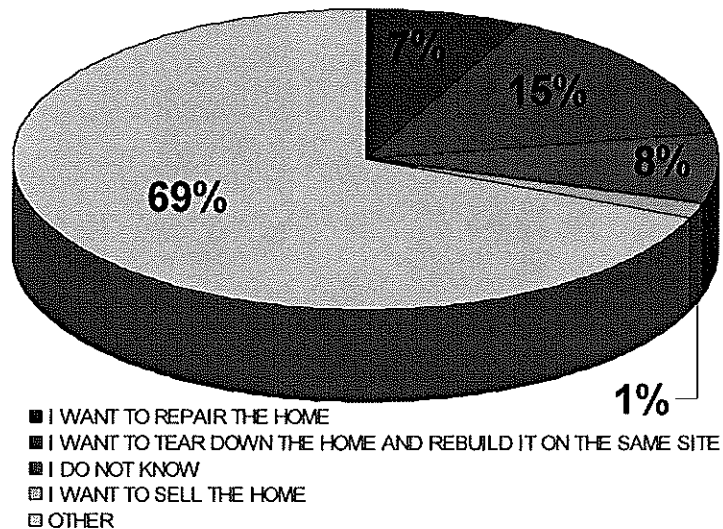


### Income Distribution of Registrants

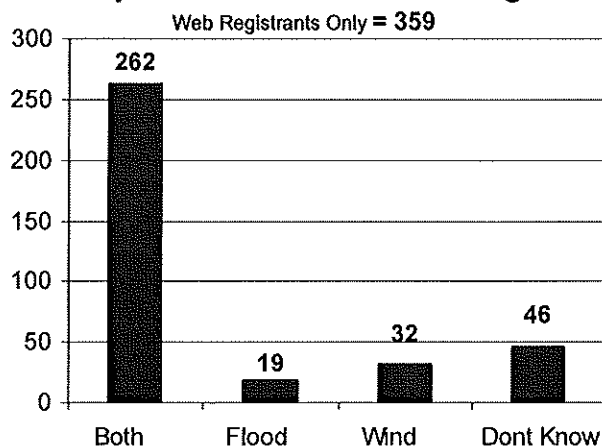


### Income Ranges (\$)

### Reported Choice of Road Home Options



### Reported Cause of Damage

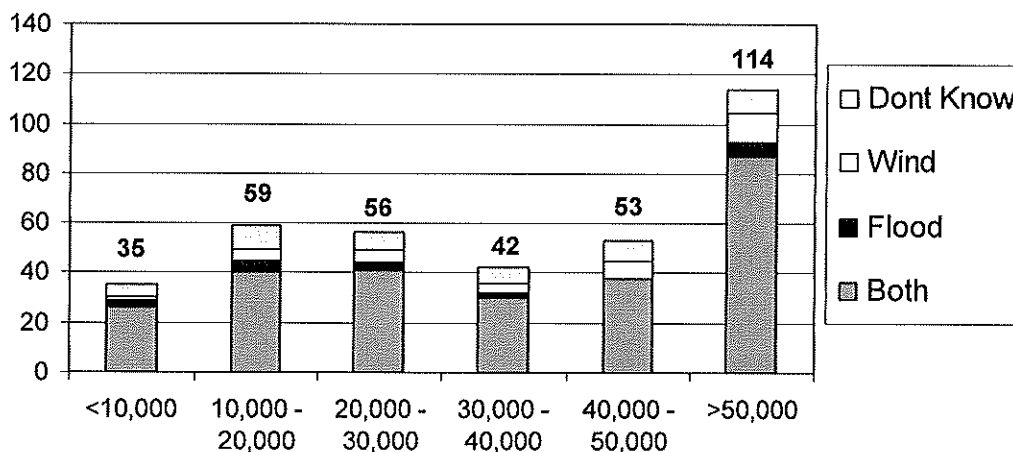


# The Road Home Registry Closout Report

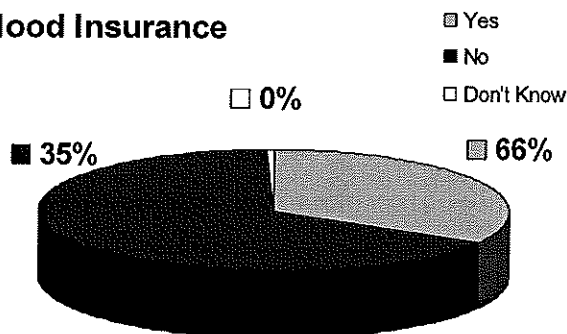
## CAMERON PARISH

### Type of Damage by Income

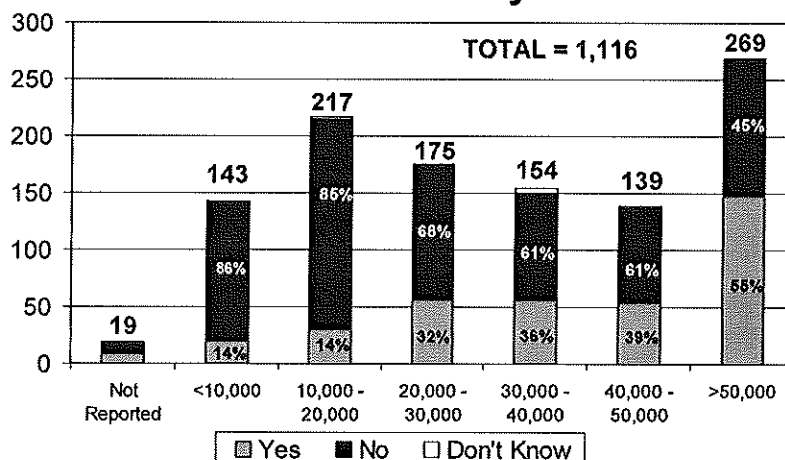
\* Web Registrants Only = 359



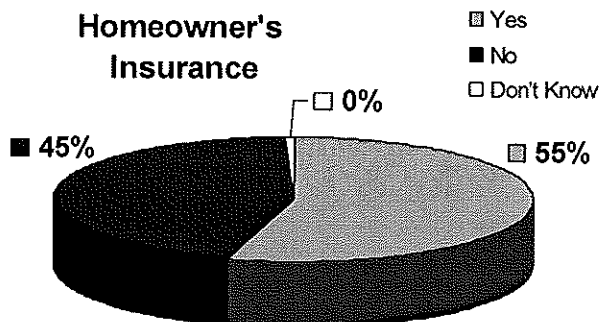
### Flood Insurance



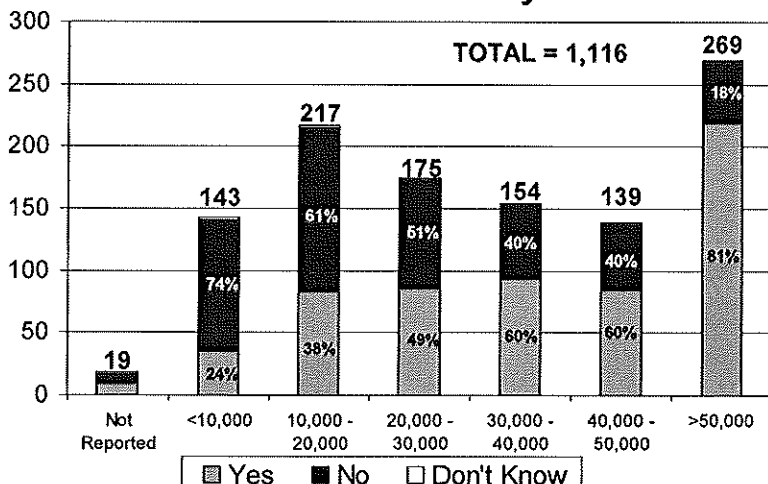
### Flood Insurance by Income



### Homeowner's Insurance



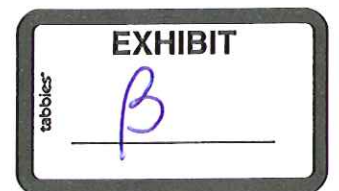
### Homeowner's Insurance by Income





**The 2005 Act**

Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, Pub. L. No. 109-148, 119 Stat. 2680 (Dec. 30, 2005).



PUBLIC LAW 109-148—DEC. 30, 2005

DEPARTMENT OF DEFENSE, EMERGENCY  
SUPPLEMENTAL APPROPRIATIONS TO  
ADDRESS HURRICANES IN THE  
GULF OF MEXICO, AND PANDEMIC  
INFLUENZA ACT, 2006

119 STAT. 2680

PUBLIC LAW 109-148—DEC. 30, 2005

Public Law 109-148  
109th Congress

An Act

Dec. 30, 2005  
[H.R. 2863]

Making appropriations for the Department of Defense for the fiscal year ending  
September 30, 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Department of  
Defense,  
Emergency  
Supplemental  
Appropriations to  
Address  
Hurricanes in the  
Gulf of Mexico,  
and Pandemic  
Influenza Act,  
2006.  
Department of  
Defense  
Appropriations  
Act, 2006.

DIVISION A

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

That the following sums are appropriated, out of any money in  
the Treasury not otherwise appropriated, for the fiscal year ending  
September 30, 2006, for military functions administered by the  
Department of Defense and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest  
on deposits, gratuities, permanent change of station travel  
(including all expenses thereof for organizational movements), and  
expenses of temporary duty travel between permanent duty sta-  
tions, for members of the Army on active duty, (except members  
of reserve components provided for elsewhere), cadets, and aviation  
cadets; for members of the Reserve Officers' Training Corps; and  
for payments pursuant to section 156 of Public Law 97-377, as  
amended (42 U.S.C. 402 note), and to the Department of Defense  
Military Retirement Fund, \$28,191,287,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest  
on deposits, gratuities, permanent change of station travel  
(including all expenses thereof for organizational movements), and  
expenses of temporary duty travel between permanent duty sta-  
tions, for members of the Navy on active duty (except members  
of the Reserve provided for elsewhere), midshipmen, and aviation  
cadets; for members of the Reserve Officers' Training Corps; and  
for payments pursuant to section 156 of Public Law 97-377, as  
amended (42 U.S.C. 402 note), and to the Department of Defense  
Military Retirement Fund, \$22,788,101,000.

PUBLIC LAW 109-148—DEC. 30, 2005

119 STAT. 2779

## MARITIME ADMINISTRATION

## OPERATIONS AND TRAINING

For an additional amount for "Operations and training", \$7,500,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## PUBLIC AND INDIAN HOUSING

## TENANT-BASED RENTAL ASSISTANCE

For an additional amount for housing vouchers for households within the area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from hurricanes in the Gulf of Mexico during calendar year 2005, \$390,299,500, to remain available until September 30, 2007: *Provided*, That such households shall be limited to those which, prior to Hurricanes Katrina or Rita, received assistance under section 8 or 9 of the United States Housing Act of 1937 (Public Law 93-383), section 801 or 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), the AIDS Housing Opportunity Act (Public Law 101-625), or the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77); or those which were homeless or in emergency shelters in the declared disaster area prior to Hurricanes Katrina or Rita: *Provided further*, That these funds are available for assistance, under section 8(o) of the United States Housing Act of 1937: *Provided further*, That in administering assistance under this heading the Secretary of Housing and Urban Development may waive requirements for income eligibility and tenant contribution under section 8 of such Act for up to 18 months: *Provided further*, That all households receiving housing vouchers under this heading shall be eligible to reoccupy their previous assisted housing, if and when it becomes available: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Vouchers.

## COMMUNITY PLANNING AND DEVELOPMENT

## COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community development fund", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005 in States for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in conjunction with Hurricane Katrina, Rita, or Wilma, \$11,500,000,000, to remain available until expended, for activities

119 STAT. 2780

PUBLIC LAW 109-148—DEC. 30, 2005

Federal Register,  
publication.  
Deadline.

Reports.

Notification.

authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383): *Provided*, That no State shall receive more than 54 percent of the amount provided under this heading: *Provided further*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: *Provided further*, That each State may use up to five percent of its allocation for administrative costs: *Provided further*, That Louisiana and Mississippi may each use up to \$20,000,000 (with up to \$400,000 each for technical assistance) from funds made available under this heading for LISC and the Enterprise Foundation for activities authorized by section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), as in effect immediately before June 12, 1997, and for activities authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, including demolition, site clearance and remediation, and program administration: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development shall waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute, as modified: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this

PUBLIC LAW 109-148—DEC. 30, 2005

119 STAT. 2781

heading no later than 5 days before such waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006. Reports.

## ADMINISTRATIVE PROVISIONS

SEC. 901. Notwithstanding provisions of the United States Housing Act of 1937 (Public Law 93-383), in order to assist public housing agencies located within the most heavily impacted areas of Louisiana and Mississippi that are subject to a declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina or Rita, the Secretary for calendar year 2006 may authorize a public housing agency to combine assistance provided under sections 9(d) and (e) of the United States Housing Act of 1937 and assistance provided under section 8(o) of such Act, for the purpose of facilitating the prompt, flexible and efficient use of funds provided under these sections of the Act to assist families who were receiving housing assistance under the Act immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes.

SEC. 902. To the extent feasible the Secretary of Housing and Urban Development shall preserve all housing within the area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from Hurricane Katrina or Rita that received project-based assistance under section 8 or 9 of the United States Housing Act of 1937, section 801 or 811 of the Cranston-Gonzalez National Affordable Housing Act, the AIDS Housing Opportunity Act, or the Stewart B. McKinney Homeless Assistance Act: *Provided*, That the Secretary shall report to the Committees on Appropriations on the status of all such housing, including costs associated with any repair or rehabilitation, within 120 days of enactment of this Act. Reports.  
Deadline.

## THE JUDICIARY

## COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses, Courts of Appeals, District Courts, and Other Judicial Services", \$18,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: *Provided*, That notwithstanding any other provision of law such sums shall be available for transfer to accounts within the Judiciary subject to approval of the Judiciary operating plan: *Provided further*, That the amount

### **The 2006 Act**

Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, Pub. L. No. 109-234, 120 Stat. 418 (June 15, 2006).

PUBLIC LAW 109-234—JUNE 15, 2006

EMERGENCY SUPPLEMENTAL  
APPROPRIATIONS ACT FOR DEFENSE, THE  
GLOBAL WAR ON TERROR, AND HURRICANE  
RECOVERY, 2006



120 STAT. 418

PUBLIC LAW 109-234—JUNE 15, 2006

Public Law 109-234  
109th Congress

An Act

June 15, 2006  
[H.R. 4939]

Making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes.

Emergency  
Supplemental  
Appropriations  
Act for Defense,  
the Global War  
on Terror, and  
Hurricane  
Recovery, 2006.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

GLOBAL WAR ON TERROR SUPPLEMENTAL  
APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for "Public Law 480 Title II Grants", during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$350,000,000, to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be used to support the previously approved fiscal year 2006 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

120 STAT. 472

PUBLIC LAW 109-234—JUNE 15, 2006

and the 2004–2005 winter storms in the State of California: *Provided further*, That any amounts in excess of those necessary for emergency expenses relating to the eligible projects cited in the first sentence of this paragraph may be used for other projects authorized under 23 U.S.C. 125: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## (HIGHWAY TRUST FUND)

## (RESCISSION)

Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$702,362,500 are rescinded: *Provided*, That such rescission shall not apply to the funds distributed in accordance with 23 U.S.C. 130(f), 23 U.S.C. 133(d)(1) as in effect prior to the date of enactment of Public Law 109-59, the first sentence of 23 U.S.C. 133(d)(3)(A), 23 U.S.C. 104(b)(5), or 23 U.S.C. 163 as in effect prior to the enactment of Public Law 109-59.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## COMMUNITY PLANNING AND DEVELOPMENT

## COMMUNITY DEVELOPMENT FUND

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for the “Community development fund”, for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, or Wilma in States for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$5,200,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383): *Provided*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: *Provided further*, That each State may use up to five percent of its allocation for administrative costs: *Provided further*, That not less than \$1,000,000,000 from funds made available on a pro-rata basis according to the allocation made to each State under this heading shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas: *Provided further*, That no State shall receive more than \$4,200,000,000: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify

PUBLIC LAW 109-234—JUNE 15, 2006

120 STAT. 473

alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, non-discrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That prior to the obligation of funds to each State, the Secretary shall ensure that such plan gives priority to infrastructure development and rehabilitation and the rehabilitation and reconstruction of the affordable rental housing stock including public and other HUD-assisted housing: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this heading no later than 5 days before such waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: *Provided further*, That of the amounts made available under this heading, \$12,000,000 shall be transferred to "Management and Administration, Salaries and Expenses", of which \$7,000,000 is for the administrative costs, including IT costs, of the KDHAP/DVP voucher program; \$9,000,000 shall be transferred to the Office of Inspector General; and \$6,000,000 shall be transferred to HUD's Working Capital Fund: *Provided further*, That none of the funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Federal Register,  
publication.  
Deadline.

Reports.  
Contracts.

Notification.  
Deadline.

Procedures.  
Reports.  
Fraud.



## Homeowner Policies Version 6.2

other to represent them then eligible owner-occupant does not need to sign release)

- Independently from FEMA, agree to verification of their ownership status and the amount of disaster-related damage to the home
- Swear to the accuracy and completeness of all information provided to the Program under penalty of law
- All applicants must agree to sign a number of documents at closing to receive assistance. These documents are fully explained in later sections and in the legal documents executed at closing.
- *Power of attorney*: Applicant(s) may grant power of attorney to someone who can apply on their behalf.

### 4 Deadlines Established for the Road Home

#### 4.1 Deadlines

- Application Deadline: *July 31, 2007*
- Deadline for First Advisory Meeting: *December 15, 2007*
- Deadline for submission of Benefit Election Letter: *November 1, 2008<sup>15</sup>*

#### 4.2 Special Circumstances related to deadlines and editing applications

- As long as one of the names on the application is an eligible owner-occupant or heir to an eligible owner-occupant, the application can be edited to include additional applicants.
- If no one on the application is an eligible owner-occupant or heir to an eligible owner-occupant, the application cannot be edited and the application is ineligible.
- If the buyer of a damaged property is on the application and has been assigned rights to a Road Home grant, but the eligible owner-occupant at the time of the storm (the seller) is not listed on the application, the application cannot be edited to add the eligible owner occupant (the seller).

### 5 Withdrawn Applications

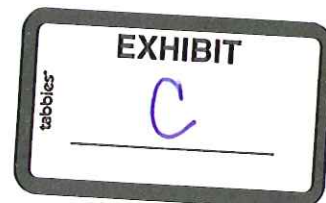
Applicants who submitted an application, completed an initial advisory meeting and then withdrew their application can contact *The Road Home* to have their application reactivated and processed.

### 6 Applicant's Assistance Options

#### 6.1 If applicant owns the land and continues to own it at time of closing

Applicants on land that is owned may select compensation to:

<sup>15</sup> Version 6.1, Revision 23, November 6, 2008



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## For Immediate Release

### *The Road Home* Begins Accepting Inbound Calls for Scheduling Appointments at Housing Assistance Centers Statewide

**BATON ROUGE, La., October 3, 2006** – Homeowners who received a letter from *The Road Home* program instructing them to do so may now call 1-888-ROAD2LA to schedule an appointment at any of the 10 Housing Assistance Centers located across Louisiana.

On Saturday, *The Road Home* began sending letters to homeowners whose applications have been submitted and reviewed. Approximately 4,000 letters per day are being sent to homeowners across the state. To date, 33,883 applications have been recorded by the program.

Homeowners must complete a full application online or submit a hard copy whether or not they pre-registered for the program. Once an application has been received, *The Road Home* team will review the application. The homeowner then receives a letter in the mail with detailed instructions on how to call to schedule an appointment. **Only homeowners who have received a letter inviting them to schedule an appointment should call.**

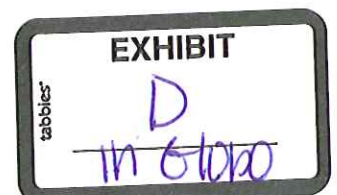
With this invitation letter in hand, homeowners can schedule appointments at the Center of their choice. Due to high demand for appointments, homeowners who can be flexible in their choices of dates, times and locations will be the most successful in having their appointments scheduled early. Evening and weekend appointment times are available at most centers which have a total capacity statewide of more than 1,000 appointments per day.

*The Road Home* program is designed to help residents of Louisiana affected by hurricane Katrina or Rita get back into their homes as quickly and fairly as possible. This groundbreaking program represents the largest single housing recovery program in U.S. history. Working together, Governor Blanco, the Louisiana Recovery Authority, and the Office of Community Development created *The Road Home Program* to afford eligible homeowners up to \$150,000 in compensation to get back into their homes.

To start your application to *The Road Home* program, visit [www.road2LA.org](http://www.road2LA.org) or call 1.888.ROAD.2.LA (1.888.762.3252). TTY callers use 711 relay or 1.800.846.5277.

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## For Immediate Release

### *The Road Home* Houston Housing Assistance Center Opens Nov. 16

**BATON ROUGE, La., November 8, 2006** – Governor Kathleen Babineaux Blanco announced today the first out-of-state Road Home housing assistance center will open in Houston on November 16, increasing access to The Road Home program for displaced residents still living in Houston and other locations in Texas.

“There’s no place like Louisiana. We are doing everything possible to help our citizens come back home. I’m excited to announce that our first Road Home Housing Assistance Center outside of Louisiana is opening in Houston,” Governor Kathleen Babineaux Blanco said. *“For the large number of Louisiana residents currently residing in Texas, and particularly in Houston, the opening of the Houston Center brings the process closer to them, making it easier for every qualifying homeowner to complete the application process.* The return home is not just a real estate transaction; it’s an emotional transaction as well. We created these centers to provide the support and individual attention our people need as they begin their journey back to Louisiana. We appreciate the continued support from our neighbors in Texas as we continue to recover from two enormous disasters, and we are determined to build a safer, stronger, smarter Louisiana.”

Louisiana residents currently residing in Texas who have already applied but have yet to schedule appointments may do so by calling 1-888-ROAD-2-LA. Those who have made appointments at a Louisiana Center have the option to reschedule those appointments at the Houston Center.

*Homeowners who have not yet applied, must complete an application whether or not they pre-registered for the program.* Homeowners may apply online at [www.road2LA.org](http://www.road2LA.org) or by calling 1-888-ROAD-2-LA.

Homeowners living in Houston who have already scheduled appointments at one of the Louisiana centers may call the hotline to reschedule their appointment at the Houston center if they wish.

“We want to make it as easy as possible for homeowners to schedule their appointments,” said Mike Byrne, Chief Program Executive. “We also want to assure homeowners that their choice of location for their appointment will not slow down the process for them to get home.”

The Road Home program also wishes to thank the residents and governments of Harris County and the City of Houston for their support of the Houston Housing Assistance Center.

“Mayor Bill White, Judge Robert Eckels, their staffs and the people of Texas have all played a vital and instrumental role in assisting the displaced residents and in getting this center up and running,” said Byrne. “Without their assistance, it would have been virtually impossible to bring this service to our residents who are living in Texas.”

*The Road Home* program is designed to help residents of Louisiana affected by Hurricane Katrina or Rita get back into their homes as quickly and fairly as possible. This groundbreaking program represents the largest single housing recovery program in U.S. history. Working together, Governor Kathleen Babineaux Blanco, the Louisiana Recovery Authority and the Office of Community Development created *The Road Home* program with the approval of the Louisiana Legislature. The

program affords eligible homeowners up to \$150,000 in compensation for their losses to get back into their homes.

To start your application to *The Road Home* program, visit [www.road2LA.org](http://www.road2LA.org) or call 1.888.ROAD.2.LA (1.888.762.3252). TTY callers use 711 relay or 800.846.5277.

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## For Immediate Release

### ***The Road Home Application and Appointment Process is Streamlined*** ***Homeowners may now apply over the telephone***

**BATON ROUGE, La., November 8, 2006** –Starting immediately, a homeowner may apply to *The Road Home* program over the telephone, complete the application and then schedule an appointment at any one of the 11 Housing Assistance Centers located across Louisiana and in Houston, Texas, program officials announced today.

This change allows homeowners to complete their applications to *The Road Home* program by calling 1-888-ROAD-2-LA. Representatives are on-hand to fill out applications and will assist in scheduling appointments with housing advisors at that time.

“We want to ensure that all eligible homeowners are able to apply, regardless of their comfort in accessing the Internet or filling out a paper application,” said Mike Byrne, Chief Program Executive. “Hopefully this new service will make it easier for every homeowner who was affected by Hurricane Katrina or Rita to apply to the program,” Byrne continued.

Homeowners are reminded that they must complete an application whether or not they pre-registered for the program. Homeowners are still encouraged to apply via the mail or on the website at [www.road2LA.org](http://www.road2LA.org). Those who apply or have previously applied online or by mail, will receive a letter requesting they call to schedule an appointment. Applicants currently residing in Houston who have scheduled appointments at one of the Louisiana Centers may call the hotline to reschedule their appointment at the Houston Center if they wish.

Every day, *The Road Home* program is working to increase the number of appointments times for applicants to meet with housing advisors. Over 300 additional appointment slots have been added in the next week alone, with even more to be added in the coming weeks. Homeowners who have previously scheduled appointments at one of the centers for dates in December and beyond, may call the hotline to reschedule their appointment for a time as early as next week. Due to high demand for appointments at a few Centers, homeowners who can be flexible in their choices of dates, times and locations will be the most successful in having their appointments scheduled early. Evening and weekend appointment times are available at most centers which have a total statewide capacity of more than 1,000 appointments per day.

*The Road Home* program is designed to help residents of Louisiana affected by Hurricane Katrina or Rita get back into their homes as quickly and fairly as possible. This groundbreaking program represents the largest single housing recovery program in U.S. history. Working together, Governor Kathleen Babineaux Blanco, the Louisiana Recovery Authority and the Office of Community Development created *The Road Home* program with the approval of the Louisiana Legislature. The program affords eligible homeowners up to \$150,000 in compensation for their losses to get back into their homes.

To start your application to *The Road Home* program, visit [www.road2LA.org](http://www.road2LA.org) or call 1-888-ROAD-2-LA (1-888-762-3252). TTY callers use 711 relay or 800-846-5277.



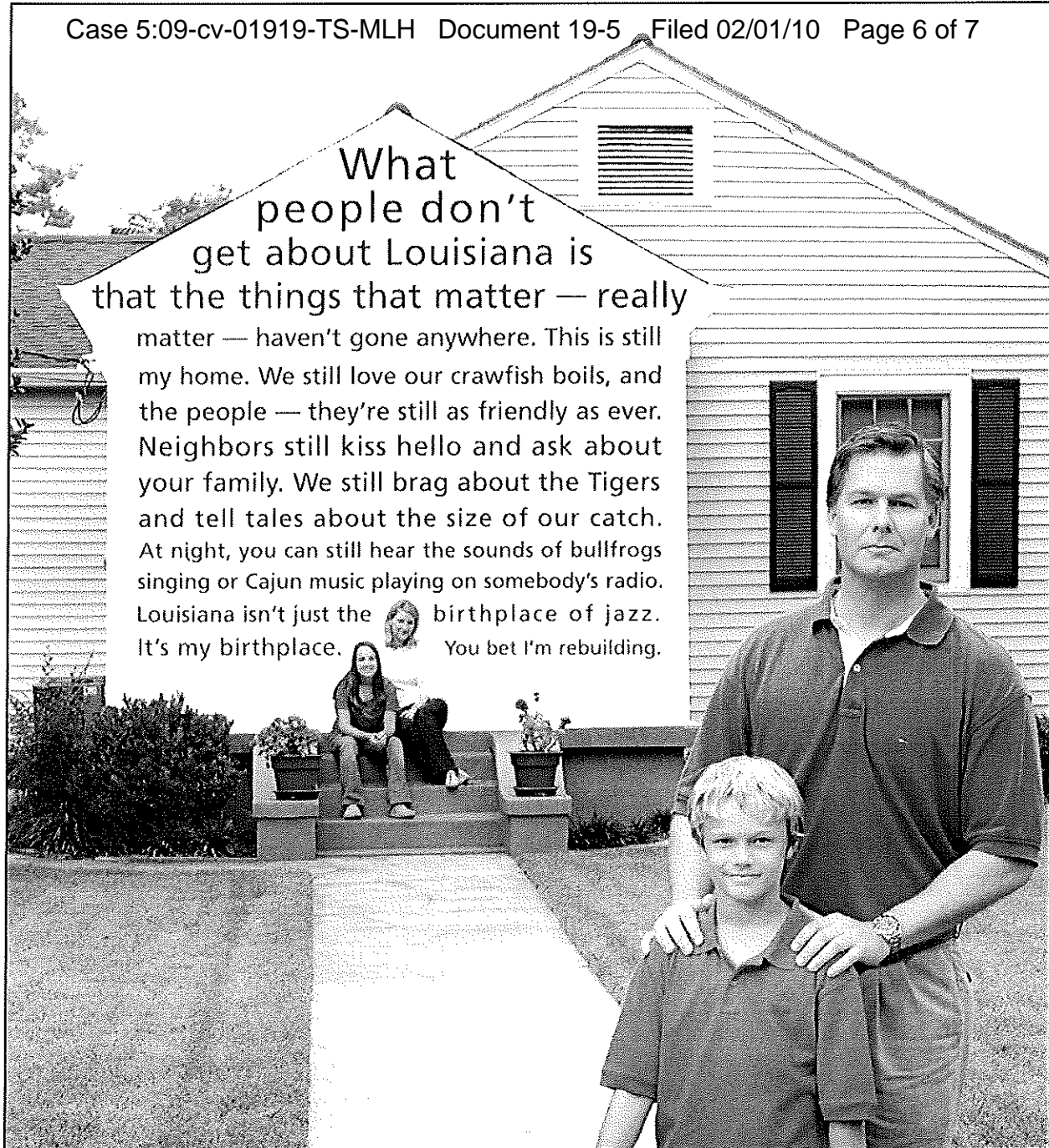
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What  
people don't  
get about Louisiana is  
that the things that matter — really

matter — haven't gone anywhere. This is still  
my home. We still love our crawfish boils, and  
the people — they're still as friendly as ever.  
Neighbors still kiss hello and ask about  
your family. We still brag about the Tigers  
and tell tales about the size of our catch.  
At night, you can still hear the sounds of bullfrogs  
singing or Cajun music playing on somebody's radio.  
Louisiana isn't just the birthplace of jazz.  
It's my birthplace. You bet I'm rebuilding.



**Please make sure you complete and submit an  
official application even if you have already  
registered for *The Road Home* program.**

**[www.road2LA.org](http://www.road2LA.org) • 1-888-ROAD-2-LA (1-888-762-3252).**



The  
**Road Home**

BUILDING A SAFER,  
STRONGER, SMARTER LOUISIANA

Eligible homeowners affected by Hurricane Rita or Katrina may receive up to \$150,000 in compensation for their losses to get them back into their homes. *The Road Home* Housing Assistance Centers are open and applications are currently being processed. To start your application for Governor Blanco's *Road Home* program, visit [www.road2LA.org](http://www.road2LA.org) or call 1-888-ROAD-2-LA (1-888-762-3252). TTY callers

What  
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that the things that matter — really  
matter — haven't gone anywhere. This is still  
my home. You still smell the gumbo cooking  
and the coffee brewing. People down here are still  
friendly. Neighbors still kiss hello and ask about your family.  
We still argue about the Saints and tell tales about  
the size of our catch. You know, Louisiana  
isn't just the birthplace of jazz.  
It's my birthplace. You bet I'm rebuilding.



**Please make sure you complete and submit an  
official application even if you have already  
registered for *The Road Home* program.**

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## For Immediate Release

Deadline to Apply to *The Road Home* Homeowner Assistance Program and Small Rental Property Program is July 31

**Baton Rouge, La., July 25, 2007** – The deadline to apply to *The Road Home* Homeowner Assistance Program and Round 2 of the Small Rental Property Program is July 31, 2007.

**Louisiana homeowners** who owned and occupied their homes at the time of Hurricane Katrina or Rita and suffered damage as a result of one of the storms may be eligible to receive assistance through *The Road Home* program. Owners of single-units, double-units, condominiums, town homes and mobile homes are encouraged to apply.

Program officials stressed that this is a deadline to apply, not a deadline for the entire program. The Housing Assistance Centers will still be available to homeowners for initial appointments and advisory service appointments past the July 31 deadline.

The Small Rental Property Program also has a deadline of July 31. **Owners of one- to four-unit buildings** may apply, including town homes and condominiums provided that they meet all of the program's basic eligibility criteria.

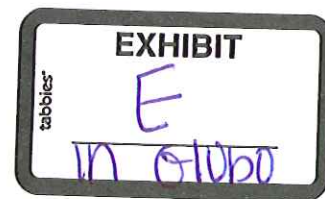
*The Road Home's* Outreach Workshops and Application Training Sessions offer assistance with applications. Visit *The Road Home* Web site or call the toll-free number to learn about a workshop near you or to reserve a seat at a training session.

To start your application to *The Road Home* program, visit [www.road2LA.org](http://www.road2LA.org) or call 1-888-ROAD-2-LA (1-888-762-3252). TTY callers use 711 relay or 1-800-846-5277.

*The Road Home* program is designed to help residents of Louisiana affected by Hurricane Katrina or Rita get back into their homes as quickly and fairly as possible. This groundbreaking program represents the largest single housing recovery program in U.S. history. Working together, Governor Kathleen Babineaux Blanco, the Louisiana Recovery Authority and the Office of Community Development created *The Road Home* program with the approval of the Louisiana Legislature. The program affords eligible homeowners up to \$150,000 in compensation for their losses to get back into their homes.

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## For Immediate Release

### Easter Seals Louisiana to Team with *The Road Home* Program to Focus on Elderly and People with Disabilities

**BATON ROUGE, La., July 26, 2007** – Easter Seals Louisiana has entered into an agreement with *The Road Home* program to provide outreach efforts to homeowners affected by Hurricane Katrina or Rita who are elderly or have disabilities, program officials announced today.

"With its unique understanding and history of service to the elderly and individuals with disabilities throughout the state, Easter Seals will be able to perfectly fill the role of assisting these individuals as they move through The Road Home process," said Michael Taylor, director of the Disaster Recovery Unit, Office of Community Development.

Selected through a competitive process, Easter Seals will assist the elderly and individuals with disabilities through *The Road Home* process as follows:

- Assist in locating and assembling required documentation to help facilitate The Road Home application process;
- Coordinate transportation through common carriers or contracted transportation providers to and from Housing Assistance Centers;
- Provide in-home assistance to the client to follow up on the status of an application or trouble shoot with the client;
- Accompany the client to the Housing Assistance Center, if needed;
- Answer Road Home related questions and provide appropriate community based referrals, in addition to housing needs. i.e., mental health, VA, SSA, etc;

Any Louisiana homeowner who has yet to apply to the program can start the application process by visiting [www.road2LA.org](http://www.road2LA.org) or by calling 1.888.ROAD.2.LA (1.888.762.3252 or TTY: 1.800.566.4224). Those homeowners must apply before the July 31, 2007 deadline.

Homeowners who need assistance or have already started the application process may contact Easter Seals directly by calling 1.866.996.4243 (1.866.996.4AID) for assistance.

Easter Seals Louisiana is a nonprofit, community-based health agency whose mission is to help people with disabilities achieve independence. Easter Seals Louisiana has been providing programs and services helping children and adults of all ages with disabilities throughout Louisiana since 1951.

It is estimated that nearly 500,000 people with varying degrees of disabilities reside in Louisiana. In many cases, an individual may have a combination of two or more disabilities, creating unique circumstances and needs for each individual. With offices in New Orleans, Metairie, Covington, Thibodaux, Alexandria, Shreveport, and Monroe, Easter Seals has earned a reputation as one of the State's most trusted and respected non-profit organizations.

*The Road Home* program is designed to provide compensation to Louisiana homeowners affected by hurricane Katrina or Rita for the damage to their homes. This groundbreaking program represents the

Blanco, the Louisiana Recovery Authority and the Office of Community Development created *The Road Home* program with the approval of the Louisiana Legislature. The program affords eligible homeowners up to \$150,000 in compensation for their losses to get back into their homes.

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## Overview of the Homeowner program

*The Road Home* program – the largest single housing recovery program in U.S. history – was developed to help our residents get back into a home or apartment as quickly and fairly as possible.

Through *The Road Home*, eligible homeowners have three compensation options:

1. Stay in your home.
2. Purchase another home in Louisiana.
3. Sell your home and choose not to remain a homeowner in the State.

The last day to apply to *The Road Home* program was July 31, 2007. If you would like to check on the status of your application please call 1.888.ROAD.2.LA (1.888.762.3252), TTY callers use 711 relay or 1.800.846.5277 or e-mail: [inquiry@road2LA.org](mailto:inquiry@road2LA.org)

After applying to the program, processing should take approximately six to eight weeks. Some applications may take longer, however, due to unresolved issues about titles, missing documentation, etc.

Homeowners who have additional questions that can not be answered by the Call Center are encouraged to schedule an Advisory Services appointment.

Eligible homeowners affected by Hurricane Rita or Katrina may receive up to \$150,000 in compensation for your losses to get you back into your homes.

Although providing assistance to homeowners is a top priority, *The Road Home* also aims to restore the tens of thousands of rental units that were damaged by the storms. The Small Rental Property Program is designed to provide loans and incentive grants to property owners who operate affordable rental homes.

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## Application Status

Due to transition activities, *The Road Home* system is temporarily unavailable. Please check this space for an announcement when it is back online.

**The last day to apply to *The Road Home* program was July 31, 2007.** If you would like to check on the status of your application please call 1.888.ROAD.2.LA (1.888.762.3252), TTY callers use 711 relay or 1.800.846.5277 or e-mail: [inquiry@road2LA.org](mailto:inquiry@road2LA.org). You may also schedule an appointment at the Baton Rouge housing center for *Road Home* Advisory Services.

Although the application period has ended, you may still [view your application online](#).



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## Application Status

Due to transition activities, *The Road Home* system is temporarily unavailable. Please check this space for an announcement when it is back online.

**The last day to apply to *The Road Home* program was July 31, 2007.** If you would like to check on the status of your application please call 1.888.ROAD.2.LA (1.888.762.3252), TTY callers use 711 relay or 1.800.846.5277 or e-mail: [inquiry@road2LA.org](mailto:inquiry@road2LA.org). You may also schedule an appointment at the Baton Rouge housing center for *Road Home* Advisory Services.

Although the application period has ended, you may still [view your application online](#).



## Homeowner Policies Version 6.2

### 16.3.2 Calculation

The calculation of benefits is the same as the calculation for owners of single unit structures except that the insurance penalty is applied if the Association failed to carry hazard insurance or, if located in the 100 year flood plain, flood insurance for the unit.

### 16.4 Additional Compensation Grant (ACG)

Owners of a condominium unit are eligible to receive an Additional Compensation Grant under Option 1 and 2. Eligibility and calculation of the Additional Compensation Grant is the same as applicants of single family units.

## 17 Applicants Who Sold Home Prior to August 29, 2007<sup>45</sup>, <sup>46</sup>

### 17.1 Inputs

- **Pre-storm value**
  - The determination and verification of the pre-storm value for applicants who sold their home prior to August 29, 2007 is the same as the pre-storm value hierarchy in place for single units as of and after January 14, 2007.
- **Other compensation**
  - FEMA Individual Assistance (FEMA IA)
  - FEMA National Flood Insurance Program (NFIP) Insurance
  - USDA
  - Private Insurance
- **Proceeds from Sale of Home**
  - The determination of "proceeds from sale of home" is the value as evidenced in the HUD 1 Settlement Statement and calculated as follows: (Line 401) minus (Line 502) = "Adjusted Sales Price." Applicants who do not submit a HUD 1 Settlement document are contacted and provided the opportunity to submit it. If the applicant is unable to submit a HUD 1 Settlement then *The Road Home* uses the gross sales price listed on the IRS 1099 form as the "proceeds from sale of home."
- **Legal fees**

### 17.2 Calculation

#### 17.2.1 Options

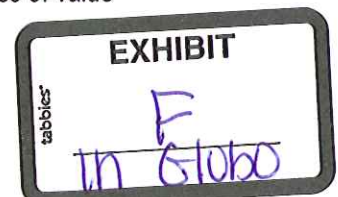
Applicants who sold their home prior to August 29, 2007 are eligible for the compensation grant. They are not eligible for an Additional Compensation Grant or an Elevation Incentive.

#### 17.2.2 Calculation of Benefits

- **Choice #1: Own and occupy another home in Louisiana:**
  - The applicant's *compensation grant amount* is their uncompensated loss of value up to \$150,000

<sup>45</sup> Version 6.1, Revision 19, November 6, 2008

<sup>46</sup> Version 6.2, Revision 32, April 13, 2009



If an applicant disagrees with their award calculation, the homeowner can choose to go to closing and receive their current award amount. If it is determined that the homeowner should receive additional funding after their file is reviewed by the Appeals Office, the additional funds will be disbursed through a second disbursement or second closing. Homeowners who have questions after their closing can call 1.888.401.9110 or email [postclosing@road2LA.org](mailto:postclosing@road2LA.org).

- **How does an applicant know if they are going to receive a second disbursement?**

An advisor from the post-closing team will contact the applicant to indicate whether or not there will be a second disbursement of funds. In some scenarios a further review of the file may determine that additional documentation needs to be collected from the applicant.

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## Sold Homes

- **I sold my home. What do I need to do to have my application processed?**

If you have previously indicated that you sold your home, you will be mailed an information packet which will explain how the process will work. Included in the mailing is a form for you to sign and return indicating your interest in having your application processed and award calculated.

In order to have your application processed, you must also send a copy of your Act of Cash Sale that has been recorded with the parish. If you do not have access to the recorded Act of Cash Sale, you should return whatever Act of Cash Sale you have or other documentation that pertains to the sale of the home.

- **Who is eligible?**

In order to be eligible for funding, you must meet the following criteria:

- o Your damaged property must be located in one of the 37 presidentially declared parishes.
- o You must have owned and occupied the damaged property as your primary residence at the time of Hurricane Katrina (August 29, 2005) or Hurricane Rita (September 24, 2005).
- o Your home was a single-unit, double-unit, town home, mobile home or condominium.
- o The property must have been registered for FEMA assistance and must meet one or more of the FEMA criteria listed in *The Road Home* program policies.
- o You must have applied to *The Road Home* program prior to the application deadline of July 31, 2007, and must have completed an appointment by December 15, 2007.
- o There has been a sale of the property prior to August 29, 2007.
- o For Hurricane Katrina: The home must have been sold between August 30, 2005 and August 28, 2007 and the sale must have been recorded with the parish no later than September 29, 2007.
- o For Hurricane Rita: The home must have been sold between September 25, 2005 and August 28, 2007 and the sale must have been recorded with the parish no later than September 29, 2007.

- **What types of compensation am I eligible for?**

If you have sold your home you are eligible for a Compensation Grant. You are not eligible for an Additional Compensation Grant or a *Road Home* Elevation Incentive.

- **How is my grant amount determined?**

If you sold your home at a loss, you are eligible for this funding. The award is calculated by determining the difference in the sale price and the pre-storm value of the property, then subtracting insurance and FEMA payments received, as well as any penalties imposed for not maintaining hazard or flood insurance at the time of the storm. The total grant amount cannot exceed \$150,000.

Below is one example of a grant calculation:

Pre-Storm Value:	\$250,000
Sale Amount:	- \$100,000
Difference	\$150,000
Difference Minus	\$150,000
Insurance Compensation	- \$85,000
FEMA Assistance	- \$15,000
<i>Road Home Compensation</i>	<b>\$50,000</b>

- **How is my pre-storm value calculated?**

*The Road Home* determines the pre-storm value of your damaged residence by using the following values in this order:

1. An appraisal provided by you and completed by a Louisiana licensed appraiser on or after January 1, 2000 and prior to the storm. Pre-storm appraisals are adjusted to account for any increase in value over time.
2. A post-storm appraisal of pre-storm value provided by you and completed by a Louisiana licensed appraiser. Applicant provided post-storm appraisals are verified for accuracy by the program.
3. An appraisal provided from a lender or government source that was completed since January 1, 2000. These values are adjusted to account for any increase in value over time.
4. A Market Analysis which is an appraisal or estimate of market value ordered by *The Road Home* and prepared by an appraiser.
5. A Broker's Price Opinion (BPO) which is an estimate provided by a real estate broker and includes a drive-by of the property.

- **What documents will I sign at closing?**

To receive full funding for *Road Home* compensation, you will sign a *Sold Home Grant Agreement* which is similar to the one that is signed by applicants who choose Option 2. This agreement requires you to own and occupy another home in Louisiana within three years of the date of closing.

If you **do not** wish to remain a homeowner in the State of Louisiana, you may sign an agreement that is similar to the Option 3 agreement. It does not require you to purchase another home, but results in a reduced grant amount. This calculation is based on a 40% reduction of the pre-storm amount, unless you were 65 or older at the time of the storm or you have a military exemption.

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# For Immediate Release

## Louisiana Lifts Deadlines for Most *Road Home* Applicants

### *State extends time for homeowners to make their Benefit Option Selection*

**BATON ROUGE, La., August 27, 2008** - The state of Louisiana is lifting deadlines for the 12,000 *Road Home* applicants who were facing a series of rolling cut off dates to move forward in the program and extending the timeframe for homeowners to make their final benefit option selections.

This change affects more than 7,000 *Road Home* applicants who previously had been facing deadlines to return documents, prove occupancy and ownership or resolve title and financial issues. The state is also rescinding deadlines for 5,400 applicants who sold their homes prior to the program's launch.

"After meeting with homeowners and community leaders, it became clear that many applicants affected by the deadlines were elderly and low income Louisianians who would be unable to comply with the program deadlines," said Paul Rainwater, Executive Director of the Louisiana Recovery Authority. "I judge this program not by the number we have served, but by the homeowners we haven't yet been able help."

Applicants who have not returned their Benefit Selection Forms now will have until **November 1, 2008**, to choose their Road Home option. More than 2,615 applicants are affected by this deadline.

"We will focus these next months on working with individual homeowners to resolve their outstanding issues and to help them get the rebuilding dollars they desperately need," Rainwater said.

By extending timeframes for applicants to resolve their long-standing issues, the state is providing additional time for applicants to receive legal advice and complete complicated title work.

Homeowners who are affected by normal program deadlines, including timeframes related to the appeals process, must still comply with program rules and timelines.

"We had hoped that by offering case-by-case extensions, we could help individual applicants in the program. Because of the extremely difficult issues facing our homeowners and because these extensions were not always provided on a consistent basis, we determined that the fairest action to take was to give everyone affected more time," Rainwater said.

### **Affected Homeowners**

The following groups of homeowners do not currently face deadlines:

- 1,200 who have yet to provide documents proving they occupied their homes at the time of the storms;
- 2,700 who have yet to provide ownership documents;
- 900 whose files are missing other documents, such as social security cards;
- 2,800 with legal, title, financial and power of attorney issues;



- 5,400 who sold their homes prior to the program's launch and now want funding from the Road Home.

The only homeowners facing a deadline of November 1, 2008, are 2,615 homeowners who have not yet returned their benefit selection forms. All deadlines relating to the appeals process remain the same.

### Outreach Events

*The Road Home* has served more than 4,100 applicants at its first nine events being held statewide to support homeowners facing deadlines, with many of the applicants able to move forward because of action taken there. There are two more public events scheduled, one in Plaquemines Parish and another in New Orleans.

- For a full list of Outreach Events, visit <http://www.road2la.org/homeowner/events.htm>

### Applicants with Questions

Homeowners with questions about their files or program deadlines have three options:

- Attend a *Road Home* outreach session and meet with Road Home counselors who will review the file and explain what action needs to be taken;
- Call *The Road Home* hotline at 1-888-762-3252 (TTY: 1-800-566-4224);
- Call *The Road Home* representative that has been handling their case.

### Sold Homes

When the original *Road Home* action plan was written and approved in 2006 it included a provision to pay grants for applicants who sold their homes at a loss prior to the launch of *The Road Home*, but only if the program had funds remaining after paying compensation and elevation grants.

Applicants must have owned and occupied the damaged property and used it as their primary residents at the time of Hurricane Katrina (August 29, 2005) or Hurricane Rita (September 24, 2005).

Applicants must have applied to *The Road Home* program before the application deadline of July 31, 2007, and must have attended their first appointment by December 15, 2007.

Single units, double units, town homes, mobile homes and condominiums are eligible. The residence must be located in one of the 37 presidentially declared disaster parishes, must have been registered for FEMA assistance and must meet one or more of the FEMA criteria listed in *The Road Home* program policies.

Applicants must have sold their homes before August 29, 2006, during these dates:

- For Hurricane Katrina: The home must have been sold between August 30, 2005, and August 28, 2006, and the sale must have been recorded with the parish no later than September 29, 2006.
- For Hurricane Rita: The home must have been sold between September 25, 2005, and August 28, 2006, and the sale must have been recorded with the parish no later than September 29, 2006.

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## For Immediate Release

### HUD Approves *Road Home* Change to Aid More 'Sold Homes' Applicants

BATON ROUGE, La., January 23, 2009 - The U.S. Department of Housing and Urban Development has approved the state of Louisiana's request to bring more *Road Home* applicants into the Sold Homes program, a change which could make more than 800 families eligible for aid.

"Homeowners had to make tough personal choices about what to do with their homes after hurricanes Katrina and Rita, and many times this included selling a home for an extreme loss," said Paul Rainwater, executive director of the Louisiana Recovery Authority. "By approving this change, the federal government is allowing us to aid more of those families, for which we are thankful."

The approval extends the timeframe until August 29, 2007, meaning that *Road Home* applicants who sold their homes up to that time, and prior to receiving aid from the program, are now eligible for aid. The previous deadline was August 29, 2006. Before submitting the plan, the state took public comment on the change and it was approved by the LRA's board and the state Legislature.

When the original *Road Home* action plan was written and approved in 2006, it included a provision to pay grants for applicants who sold their homes at a loss prior to the launch of the Road Home, but only if the program had funds remaining after paying compensation and elevation grants.

Last fall, the state made "sold home" applicants eligible for program funding and has started processing their applications and scheduling closing appointments for their grants. The change affects an additional 832 applicants; sufficient funds exist in the \$100 million budgeted for the Sold Homes program. These applicants had been contacted by the Road Home and their applications will be processed now.

The state sent 5,500 letters to "sold homes" applicants, with 2,964 applicants responding as interested in funding. From that pool, 1,657 applicants have active, in progress applications and another 102 are having their eligibility verified.

Applicants still must have applied to the program prior to its July 31, 2007, application deadline and completed their first appointment by December 15, 2007. Regulations attached by Congress to the use of the final allocation of *Road Home* funds do not allow for any new *Road Home* applications to be taken.

To view the approved plan, visit <http://www.doa.louisiana.gov/cdbg/dr/plans/Amend31-Proposed-SoldHomeDeadline-08-11-05.pdf>.

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## For Immediate Release

### *Road Home* to Serve Applicants who Sold their Homes before the Program's Launch

**BATON ROUGE, La., July 29, 2008** – *The Road Home* will begin serving homeowners who sold their Hurricane Katrina and Rita ravaged homes before the launch of the program in 2006, the state of Louisiana announced Monday.

More than 5,000 *Road Home* applicants who sold their homes at a loss before the launch of the program may now be eligible for grants. Letters will be mailed to all of these applicants by the end of the week and they must return these letters indicating interest in order to have their application processed.

The intent of *Road Home* grants for those that sold their home early is to compensate them for their loss based on the pre-storm equity in their home. As such, their grants will compensate them for the pre-storm value of the home less any sales, insurance or FEMA proceeds. The \$150,000 cap will still apply to this group of applicants.

"We have long promised this group of applicants that we would begin serving them after we'd worked through homeowner rebuilding grants and elevation grants," said Walter Leger, chair of the Louisiana Recovery Authority's Housing Task Force. "This has been a long wait for these homeowners who sold their homes at a loss in the early days after the storms and we are happy to serve them as we move through the final year of *The Road Home* program."

When the original *Road Home* action plan was written and approved in 2006 it included a provision to pay grants for applicants who sold their homes at a loss prior to the launch of the *Road Home*, but only if the program had funds remaining after paying compensation and elevation grants.

Applicants must have owned and occupied the damaged property and used it as their primary residents at the time of Hurricane Katrina (August 29, 2005) or Hurricane Rita (September 24, 2005).

Single units, double units, town homes, mobile homes and condominiums are eligible. The residence must be located in one of the 37 presidentially declared disaster parishes, must have been registered for FEMA assistance and must meet one or more of the FEMA criteria listed in *The Road Home* program policies.

Applicants must have applied to *The Road Home* program before the application deadline of July 31, 2007 and must have attended their first appointment by December 15, 2007.

Applicants must have sold their homes before August 29, 2006, during these dates:

- For Hurricane Katrina: The home must have been sold between August 30, 2005 and August 28, 2006 and the sale must have been recorded with the parish no later than September 29, 2006.
- For Hurricane Rita: The home must have been sold between September 25, 2005 and August 28, 2006 and the sale must have been recorded with the parish no later than September 29, 2006.

When returning their paperwork to the program, applicants should include a copy of the Act of Cash Sale for their property that was recorded with the parish and executed between August 30, 2005 and August 28, 2006 for Hurricane Katrina or between September 30, 2005 and August 28, 2006 for Hurricane Rita.

Applicants who do not have access to the Act of Cash Sale that has been recorded with the parish should send a copy of whatever Act of Cash Sale they have. Applicants should also provide as much information as possible about the sale of their homes.

If circumstances prevent an applicant from accessing the appropriate documents, a *Road Home* staff person will assist the applicant in acquiring the required documents from the Parish.

Applicants with questions can contact the Road Home at 1-888-762-3252 (TTY: 1-800-566-4224) or go online to [www.Road2La.org](http://www.Road2La.org).

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

**MAY - 8 2009**

Mr. Paul Rainwater  
Executive Director  
Louisiana Recovery Authority  
and Office of Community Development  
State of Louisiana  
150 N. Third Street, Suite 200  
Baton Rouge, LA 70801-1916

Dear Mr. Rainwater:

On September 21, 2008, the State of Louisiana submitted a revised request seeking the Department's approval to grant certain exceptions to the requirements of Federal Register Notice 72 FR 70472 that no Road Home payments be made to applicants who missed the December 15, 2007, appointment deadline set by the state. Prior review of the state's proposed policy for granting exceptions for applicants who missed the first appointment deadline resulted in the Department permitting the processing of applicants that were:

- Physically unable to attend due to a medical related emergency
- On active military duty and unable to take leave as verified by a copy of orders showing tour of duty and or discharge orders showing the beginning and the end dates of a tour of duty.
- Incarcerated or otherwise physically detained by local, state or federal authorities.

At the time of the approval, the state's exception policy was not clearly defined in regard to cases that may have involved errors by the state and/or its contractor pertaining to both the July 31, 2007, application deadline and the December 15, 2007, first appointment deadline. HUD re-emphasizes that the Department cannot grant exceptions for applicants who failed to meet the *statutory* July 31, 2007, application deadline. Only cases that have met the application deadline (i.e. application filed on or prior to date and/or applicant information loaded into the state's eGrants system) can receive Road Home payments from the grant amounts covered by the Notice 72 FR 70472.

Road Home applicants that failed to comply with the July 31, 2007, application deadline may not receive any Road Home homeowner compensation program payments from the funds allocated to that program in accordance with the Action Plans for disaster recovery for the grants made under Public Laws 109-148, 109-234 and 110-116, as those plans had been amended and accepted by HUD as of the time described in the Notice. The Notice prevents the state from using the grant under Public Law 110-116 to make payments to those who missed the deadline, and it prevents the state from reprogramming funds out of the homeowner compensation program from the other two grants. The Notice would not prevent the state from re-budgeting funds from another activity, such as infrastructure, to add to those funds already budgeted, and it would not prevent those additional funds from being used to provide assistance



to applicants who missed the appointment deadline. To do this, the state would have to amend the relevant disaster recovery Community Development Block Grant (CDBG) Action Plan.

The state has developed first appointment deadline (December 15, 2007) policies and procedures to address exception cases that resulted from state and/or contractor deficiencies involving incorrect instructions to the applicant and the following instances:

- Applicants turned away at the Housing Assistance Center (HAC) for their initial appointment mistakenly by Road Home staff;
- Applicants informed by Road Home in writing or by phone that they would be contacted for an initial appointment, but then never received a phone call by Road Home to schedule their appointment (some applicants have provided their phone records to show they never received a phone call from Road Home prior to the December 15, 2007 deadline); or
- Applicants misinformed by Road Home staff that they were ineligible for the Road Home because they sold their home (these applicants would have either been turned away after appearing at the HAC for their Initial Appointment or received a letter of ineligibility from Road Home prior to the December 15, 2007 deadline); or
- Applicants originally determined ineligible for the Road Home program, but were then determined to be eligible for the Road Home program by Appeals after December 15, 2007; or
- Applicants is an heir to the property who inherited the house after December 15, 2007 due to the death of the eligible owner-occupant.

Documentation required to validate the above mentioned instances has been identified by the State and is listed below:

**Turned away at the initial appointment:** Road Home would provide proof that these applicants did show up for their initial appointment through signed attendance logs, an appointment schedule for that day to show the applicant was not seen by Road Home Advisors and/or notes from the advisor in the Road Home Application Issues Tracking System stating the applicant was turned away at their initial appointment.

**Inherited property:** Heir would have to provide a Death Certificate and Judgment of Possession showing they have inherited the property by death of the eligible owner-occupant at the time of the storm. Road Home would confirm the original owner-occupant was indeed eligible for the program before the heir could be determined eligible for assistance.

**Sold home:** Road Home would provide proof that these applicants did show up for their Initial Appointment through signed attendance logs, an appointment schedule for that day to show the applicant was not seen by Road Home advisors and/or notes from the advisor in the Road Home Application Issues Tracking System stating the applicant was turned away at their initial appointment because they were not eligible for assistance or, applicant would need to provide proof that they received a letter of ineligibility from the Road Home program for being a sold home prior to the December 15, 2007 deadline.



**Appeals:** Road Home would provide proof that these applicants did submit an application and were initially communicated to that they were ineligible for Road Home assistance prior to the December 15, 2007 deadline. Road Home would provide an Appeal Determination showing the applicant was approved for eligibility after the December 15, 2007 deadline.

**Other:** Applicants stating they received communication in writing and/or by phone from Road Home that they would be contacted by Road Home to schedule their Initial Appointment. Applicants who were advised by Road Home staff over the phone that they would receive a phone call to schedule their initial appointment will provide phone records as proof that they contacted Road Home and proof that no phone call was ever received back by Road Home to substantiate their claim.

HUD has since reviewed the revised exception policy memorandum (enclosed with this letter) and has determined that the revised policies and procedures are in compliance with the December 11, 2007, Notice. HUD hereby grants the exceptions for Road Home applicants who missed the December 15, 2007, first appointment deadline for the reasons referenced in this letter.

HUD looks forward to continue working with you and your staff in partnership to address the critical redevelopment of your state. If you have any questions regarding HUD's direction, please address them to Dr. Mark Mitchell, Acting Director, Disaster Recovery and Special Issues Division, at (202) 708-3587.

Sincerely

A handwritten signature in black ink, appearing to read "Stanley Gfmont", with a stylized flourish at the end.

Stanley Gfmont  
Director  
Office of Block Grant Assistance