

No. 06-1253

**Official Order  
of the  
Commissioner of Insurance  
of the  
State of Texas  
Austin, Texas**

**Date:** DEC 01 2006

**Docket No. 2651**

**Subject Considered:**

**PETITION TO DESIGNATE AN AREA IN HARRIS COUNTY  
AS A CATASTROPHE AREA**

**General remarks and official action taken:**

On this day came on for consideration by the Commissioner of Insurance the matter of a petition requesting the designation of an area in Harris County, Texas bounded on the east by State Highway No. 146, on the west by State Highway No. 288, on the south by the Harris County/Galveston County Border, and on the north by Loop 610 and State Highway No. 225 as a catastrophe area, eligible for coverage through the Texas Windstorm Insurance Association (Association).

On July 13, 2006 the association presidents of Marina Bay Condominiums, Lakeside Townhomes Council of Co-Owners, and The Point at Egret Bay Condominiums, representing approximately 330 residents, joined in a petition to the Commissioner requesting that the area described above be designated by the Commissioner as a catastrophe area for the purpose of eligibility for

windstorm and hail insurance coverage through the Association. According to the petition, an unplanned and significant increase in cost for windstorm and hail coverage that started in February of 2006, and in one case retroactive to November 2005, has been from 125% to 128%, resulting in the inability to prepare the property owners' next year's expense plans and required maintenance dues. According to the petition, as a result of these factors, a total of 165 residences in the petitioning associations no longer have windstorm and hail insurance coverage reasonably available.

The Association was created by the Texas legislature in 1971 and is composed of all property insurers authorized to transact property insurance in Texas. The purpose of the Association is to provide windstorm and hail insurance coverage to residents and businesses in designated catastrophe areas that are unable to obtain such coverage in the voluntary market. Since its inception, the Association has provided this coverage to residents and businesses of fourteen coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy. In 1996, those parts of the cities of Seabrook, La Porte, and Morgan's Point in Harris County located east of State Highway No. 146 were designated as catastrophe areas pursuant to the provisions of Art. 21.49 §3(h). In 1997, those parts of the cities of Shoreacres and Pasadena in Harris County

located east of State Highway No. 146 were also designated as catastrophe areas pursuant to Art. 21.49 §3(h).

A public hearing to consider the petition was held under Docket No. 2651 on September 19, 2006 at 10:00 a.m. in room 100 of the William P. Hobby State Office Building, 333 Guadalupe Street, Austin, Texas. Fifteen witnesses testified at the hearing.

**FINDINGS OF FACT**

1. Petitioners seek to have an area in Harris County bounded on the east by State Highway No. 146, on the west by State Highway No. 288, on the south by the Harris County/Galveston County Border, and on the north by Loop 610 and State Highway No. 225, designated a catastrophe area eligible for the writing of windstorm and hail insurance through the Texas Windstorm Insurance Association.<sup>1</sup>

2. The area described in Finding No. 1 is approximately 230 square miles of urban development.<sup>2</sup>

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<sup>1</sup> Petitioners sought at the hearing to have a larger area designated as a catastrophe area, absent notice and a formal amendment. The area in the petition, which is described in Finding of Fact No. 1, is the area the decision will be based on.

<sup>2</sup> Although the area proposed to be designated a catastrophe area included parts of the city of Houston, Texas, and parts of the county of Harris County, Texas, the proposed catastrophe area was neither the entirety of Houston nor the entirety of Harris County. Nonetheless, several of the witnesses presented



3. One witness appearing for the petitioners testified at the hearing that the approximate population of the area, determined by a count of individuals within legislative districts, is 261,500 persons. Judicial notice is taken of the fact that the U.S. Census of 2000 estimated the population of the block groups that most closely correspond to this area to be 554,518 persons in 190,211 households.
  
4. Testimony at the hearing indicated that there have been anecdotal reports of increases in price by voluntary and surplus lines insurers for windstorm insurance covering certain commercial property located in the area. In addition, testimony indicated that there have been anecdotal reports of some increases in the amount of deductible required for certain commercial policies written within this area for wind coverage. However, there was no credible evidence provided relating to the unavailability of commercial property insurance.
  
6. The testimony established that there are both licensed insurers and surplus lines insurers actively writing windstorm insurance on commercial property located in the area described in the petition.
  
7. The evidence provided did not establish that windstorm and hail insurance is not reasonably available to a substantial number of property owners within the

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testimony about property located in Houston or Harris County outside the area petitioned to be designated a catastrophe area.

area described in Finding No. 1 due to that area being subject to unusually frequent and severe damage resulting from windstorms.

**CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction of this matter pursuant to TEX. INS. CODE ANN. Art. 21.49.

2. The Commissioner is authorized pursuant to Art. 21.49 §3(h) to designate a city or a part of a city, or a county or a part of a county, as a catastrophe area eligible for coverage through the Association upon determination, after notice of not less than 10 days and a hearing, that windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property within that city or a part of that city or a county or a part of that county that is subject to unusually frequent and severe damage resulting from windstorms and/or hailstorms.

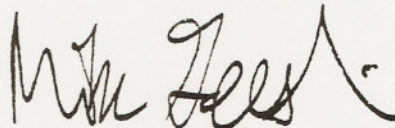
Based on the foregoing findings of fact and conclusions of law, the Commissioner is of the opinion that the petitioners failed to demonstrate with credible evidence that windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property due to unusually frequent and severe damage resulting from windstorms and/or hailstorms in the area in Harris County bounded on the east by State Highway No. 146, on the west by

State Highway No. 288, on the south by the Harris County/Galveston County Border, and on the north by Loop 610 and State Highway No. 225, and is further of the opinion that petitioners' request should be **DENIED**.

**IT IS THEREFORE ORDERED** that the petitioners' request to designate that area in Harris County bounded on the east by State Highway No. 146, on the west by State Highway No. 288, on the south by the Harris County/Galveston County Border, and on the north by Loop 610 and State Highway No. 225 as a catastrophe area pursuant to Art. 21.49 §3(h) eligible for coverage through the Texas Windstorm Insurance Association, is hereby, and by this Order, **DENIED**.

**AND IT IS SO ORDERED.**

TEXAS DEPARTMENT OF INSURANCE



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MIKE GEESLIN  
COMMISSIONER OF INSURANCE