



ADAM JARCHOW

STATE REPRESENTATIVE • 28TH ASSEMBLY DISTRICT

Testimony – Assembly Bill 713
Assembly Committee on Local Government
February 7, 2018

Floods are difficult to predict. Actuarial sciences cannot predict floods and the costs associated to provide a comprehensive market solution, like with auto accidents. This difficulty creates a disparity between possible providers and homeowners wishing to protect their home from flood damage, resulting in homeowners either going without necessary protection or utilizing less reputable insurance programs that may be predatory. The National Flood Insurance Program (NFIP) was created by the federal government to close this market gap. Insurers are supported by the federal program and, in turn, provide insurance to homeowners for flood risk.

Wisconsin currently allows an amendment of floodplain maps only after water surface profile and floodplain zoning ordinances are amended and submitted for Department of Natural Resources approval. This means those who wish to be protected through the NFIP may be prohibited from participating based on the community's and DNR's decisions. Conversely, some homeowners may have had their property incorrectly mapped as in a floodplain, placing onerous floodplain zoning ordinances on a home or property that has no reason to be so highly regulated.

The Federal Emergency Management Agency (FEMA) has a process to amend floodplain maps, called a Letter of Map Amendment (LOMA). A LOMA is a determination by FEMA to change the status of a property on federal floodplain maps, utilizing an Elevation Certificate prepared by a Licensed Land Surveyor or Registered Professional Engineer. AB 713 uses FEMA's LOMA process to answer the aforementioned issues.

AB 713 relieves the burdens on homeowners wanting to protect their home and on homeowners being crushed by unnecessary regulatory schemes. This bill would require the governmental unit where the property is located to amend the floodplain determination of the requesting property to comply with a LOMA. Homeowners deserve protection and they deserve to have their homes properly mapped. AB 713 provides confidence to homeowners, assurance their home can be protected, and certainty in the mapping of floodplains.

Thank you to the committee chair and members for hearing testimony on AB 713. I ask for your support in protecting homeowners across Wisconsin through this legislation.

Thank you for providing this opportunity to comment on Assembly Bill 713.

My name is Alan Luloff and I represent the Association of State Floodplain Managers – a national non-profit that is focused on reducing flood losses in the nation. We represent 18,000 State and local floodplain managers across the nation. This bill is problematic in that it forces local government to allow new construction that will likely get flooded.

I am a licensed professional engineer and it is important for you to understand that the engineering used for a LOMA is very crude. There are instances from Wisconsin that a full engineering analysis showed that the flood elevation was over five feet higher than the LOMA indicated. It is one thing to use it as the basis to waive the requirement to purchase flood insurance – which is what a LOMA is intended to do. It is really a flood insurance waiver not a Map Amendment. What this bill does is require communities to allow buildings to be built in potentially hazard areas. It is bills like this that undermine peoples trust in government. When a community issues a building permit – the person getting the permit expects that it is safe to build there.

Let me repeat - This bill will cause more buildings to be built that in areas that likely will be flooded. It is a public safety issue - not only for the home owner but for the emergency response personnel that will be called upon to rescue people that get flooded.

Around the country people die every year trying to get to or out of their flooded home. There are horror stories of people losing their elderly parents when a nursing home cannot be evacuated quickly enough. Ask anyone that has had their home flooded and found out that that the damages are not covered by homeowners insurance. Even if they have the financial resources to rebuild, they often have had to throw out irreplaceable heirlooms and precious family photos.

The risk to life and property is just not worth it.

Thank you for listening and please do the right thing and reject this legislation.

Respectfully submitted by:

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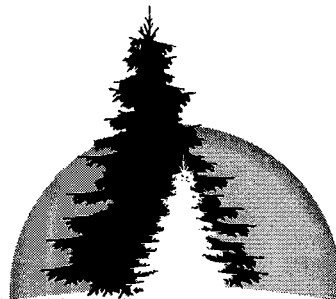
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**NORTH COUNTRY
SURVEYING INC**

Memo

To: *Those interested in AB 713*
From: *Douglas R. Crane*
Date: *February 5, 2018*
Re: *Points on why this legislation is necessary*

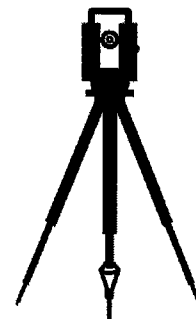
The Wisconsin DNR has implemented a policy that is detrimental to citizens of Wisconsin that own property that is classified as Zone A on Flood Insurance Rate Maps (FIRM). Zone A does not have a flood elevation determined. This policy requires that a Hydraulic and Hydrologic (H & H) study be completed to establish the precise flood elevation prior to allowing any construction permits. This is fine when the land to be built on is potentially low enough to flood.

However, in some cases the maps are way off and properties and structures are mistakenly shown in Zone A, that will clearly never flood. FEMA recognizes this in their regulations and allows for the landowners to work with a Professional Land Surveyor or Professional Engineer to apply for a LOMA or Letter of Map Amendment. FEMA has engineers review the application and information submitted. If they want more information, they request it from the applicant. If they believe that the property or structure could potentially flood after applying a safety factor, they will reject the application and not issue a LOMA. If the FEMA reviewer concurs with the applicant that the property or structure is clearly outside the chance of flooding, they will issue a LOMA. The LOMA amends the FIRM panel to reclassify that the property or structure is not Zone A, but Zone X (unshaded), which is outside of the flood plain.

In some parts of Wisconsin where the DNR H&H policy has not been implemented, a landowner can proceed to build on his property. Based on the FEMA regulations, the property has been properly removed from the flood plain with the LOMA process.

However in other parts of the state, where this DNR policy has been implemented, the Code Administrators, are barred from issuance of any building permits unless an H&H study is completed and approved by the DNR. These studies cost \$10,000 to \$30,000 and more in complex situations and also take a long time to complete, causing significant delays. Often these costs will fall on one landowner that needs or wants to build on his land. When there is a clear mistake or blunder on the FIRM panel that has inadvertently classified land in the wrong Zone, we need a better way to remedy these injustices. The LOMA application and process is the solution under FEMA regulations.

In summary, the proposed legislation simply brings Wisconsin in line with FEMA regulations. When land has been inadvertently included in the flood plain and should not be, the LOMA procedure allows the landowner to make an argument to have the land officially removed. With this legislation, the local Code Administrators and DNR would honor the LOMA and issue permits to proceed with construction.



Soil Evaluation, Septic System Design, Septic System Evaluations, Storm Water Design, Erosion Control Design, Professional Surveyor, Professional Engineer, FEMA LOMA applications, Wet Land Delineation, Erosion Control Inspector

MIKE HESS
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February 7, 2018

Subject Assembly Bill 713 as Amended

I wish to urge you to support the subject Assembly Bill.

I am a Professional Surveyor and a Professional Engineer. I work in north east Wisconsin (Florence, Forest, Lincoln, Langlade, Marinette, Oconto, Oneida and Vilas Counties).

The FEMA Firm maps in our area were drawn by using older quadrangle maps without field surveys. Many of the Firm Maps do not accurately represent actual field conditions. FEMA realizes this and offer several options to correct any inaccuracies with their published Firm Maps.

Letters of Map Amends the published Firm Map and as such remove the subject area in the LOMA request from the flood plain.

In our area, the counties are instructed by the DNR not to issue building permits based on a LOMA if the LOMA is not based on a detailed H & H study.

The existing Firm Maps were not constructed using an H & H study and the LOMA requests are for the most part more in detail than the published Firm Map.

When FEMA grants a LOMA they say the grant may be rescinded if and when better data is available.

I believe it is unreasonable to require a property owner to pay for a very expensive H & H study to disprove a map that was constructed without such a study. If such a study is required, I believe the DNR should pay for it.

Sincerely

Mike Hess



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Date: February 7th, 2018

Memo to: Representative Ed Brooks, Chair Assembly Committee on Local Government

Cc: Representative Rob Swearingen, 34th Assembly District
Representative Mary Felzkowski, 35th Assembly District
Senator Tom Tiffany, 12th Senate District

From: Scott Holewinski, Chair Oneida County Planning & Development Committee *SH*

RE: Proposed Assembly Bill 713 and Amendments thereto

Oneida County Planning and Development Committee discussed the proposed Assembly Bill 713 and Amendments thereto. Oneida County staff participated in a conference call with the Wisconsin County Code Administrators and the Wisconsin Counties Association to suggest amendments. Oneida County supports the Bill and amendments thereto and we encourage the Assembly Committee on Local Government to support passage of this bill.

Oneida County and its landowners will benefit from this legislation by allowing our Zoning Administrator to issue a building permit when a landowner presents a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency (FEMA) with their permit application.

Currently County Zoning Staff rely on the Flood Insurance Rate Maps (FIRM), which are a graphic representation of flood zones to determine the extent to which a parcel of land is affected by the flood zone. Unfortunately, the maps created by FEMA are not very accurate in some areas. FEMA recognizes there are mapping errors and allows landowners to work with a professional land surveyor or engineer to apply for a LOMA to provide relief to landowners when it is determined the maps are incorrect and a parcel is not in the flood zone.

Today, even with a LOMA, Wisconsin Department of Natural Resources (DNR) does not allow County Zoning Staff to issue building permits in areas that show up as being on the maps in the flood zone. While this legislation will not solve all of the issues involving flood zones and permitting, it will provide an affordable avenue of relief for some landowners by allowing zoning officials to issue permits with a LOMA.

Thank you for considering our request.