

**Port of Houston Authority
Bayport Mitigation Solution Program**

Frequently Asked Questions

1. Question: Am I eligible for the Bayport Mitigation Solution Program?

Answer: In order to qualify as an “eligible property owner,” you must meet all of these criteria:

- a. Currently own a residential lot or home within the program area;
- b. Submit a completed application form to the Port Authority no later than 60 days from the receipt of the program information packet; and
- c. Clear any title issue identified by the title company examining the property, by working with the Port Authority and its title company.

2. Question: What consideration will the Port Authority pay if I grant an easement?

Answer: The person or entity owning an eligible property (as defined in Question #4 below) that is or was improved with a permanent, habitable structure at any time between February 8, 2007 and January 26, 2010 is eligible for a \$40,000 program payment. A person or entity owning an eligible property *without* a permanent, habitable structure during that time period is eligible for a \$5,000 program payment.

3. Question: How was the program boundary determined?

Answer: The Bayport sound impact study and test results collected over a two-year period defined the boundary of the program area. Federal Aviation Administration (FAA) guidelines and targets for residential mitigation projects were used to determine the impact area. The boundary encloses the area where exterior sounds exceed 65 dBA Ldn (the FAA mitigation action level). Physical geographical boundaries were also incorporated as a means of setting and identifying program boundaries, for example in instances where the 65 dBA Ldn line might otherwise cut through a lot.

4. Question: What constitutes an “eligible property”?

Answer: The Harris County Appraisal District’s identification of individual tax parcels is being used to help guide the mitigation payment process: i.e. one HCAD tax parcel equals one property. For example, if one eligible home is located on a ¼ acre parcel, and another on a ½ acre parcel, and each property is defined as one tax parcel by HCAD, then each will be eligible for the same mitigation payment.

5. Question: What is an easement?

Answer: An easement is a limited right to make use of another person’s land for a stated purpose.

6. Question: What is the practical effect of granting the Port Authority an easement on my property? For instance, will the Port Authority have the right to tear down my home or build on any portion of my land without further permission?

Answer: Granting an easement will not alter your ability to use or build on your property, or prevent its sale. The Port Authority will not have the right to tear down your home or build on your land. Since the easement constitutes your legal “permission” for the Port Authority to construct, develop, operate and maintain the Bayport Container and Cruise Terminal without

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liability to you for lawful activities there, this legal permission will run with the land and bind future owners of your property.

7. Question: What rights am I giving up if I sign the easement document?

Answer: In addition to giving your legal “permission” for the Port Authority to construct, develop, operate and maintain the Bayport Container and Cruise Terminal, YOU AND FUTURE OWNERS ARE GIVING UP RIGHTS YOU MAY HAVE TO SUE THE PORT AUTHORITY FOR THESE ACTIVITIES. However, state and federal statutes will continue to govern Port Authority activities, and you will retain rights under these laws, even if you grant the easement.

8. Question: How do I apply for the program?

Answer: Eligible property owners must submit a completed program application to the Port Authority. If you are applying for a mitigation payment for a permanent, habitable structure in the program area, please also submit proof that the home was habitable at any time between February 8, 2007 and January 26, 2010. A utility bill for one month during that period is one form of proof; other reasonable proof will be accepted.

Once the Port Authority receives your complete application, if you are eligible, the Port Authority will prepare and send to you a Bayport Terminal Construction and Operations Mitigation Agreement, acknowledging your agreement to participate in the program, which you should then sign and return as instructed.

9. Question: How long do I have to make a decision about participating in the program?

Answer: In the next few weeks, property owners in the program area will receive an information packet by postal service delivery, with a program application for participation in the program. Property owners have 60 days from the date of receipt of the information packet to submit the completed application to the Port Authority.

10. Question: Can I change my mind?

Answer: Property owners have the right to cancel the Construction and Operations Mitigation Agreement at any time before the Port Authority and title company issues the mitigation payment to them and records the easement.

11. Question: How do you determine who is processed first?

Answer: Applications will be processed in the order received by the Port Authority, on a first-come, first-serve basis. Applications will be date-stamped on receipt to guide the process.

Applications should be either mailed or delivered to the Port Authority executive offices:

The U.S. Postal Service address is:

Port of Houston Authority
Attn: Purchasing
P.O. Box 2562
Houston, Texas 77252

For delivery by delivery service or by hand:

Port of Houston Authority
Attn: Purchasing
111 East Loop North
Houston, Texas USA 77029

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12. Question: What will happen next?

Answer: The Port Authority will request that a title company perform a title search on your property to confirm your legal ownership of the property, and identify any matters that may affect your title to the property. For most owners, the customary title exceptions should not be an issue to the Port Authority. However, all title matters will be reviewed on a case-by-case basis, and THE CONSENT OF YOUR LENDER MAY BE REQUIRED FOR PROGRAM PARTICIPATION.

Once the title condition is approved by the Port Authority, you will be asked to sign the easement document at the title company's offices (or another convenient location, if you prefer). The title company will forward the mitigation payment to you when it is prepared to record the signed notarized easement against your property.

13. Question: How long will the entire process take?

Answer: The complete process of preparing forms, reviewing title, and closing will vary on a case-by-case basis. Each is expected to be completed within 30 to 60 days from the time you sign and return the Operations and Mitigation Agreement to closing, depending on title matters.

14. Question: Is there a limit to how many applications will be accepted by the Port Authority?

Answer: Applications are limited to the 411 residential properties within the program area.

15. Question: What if I don't live on the property?

Answer: Property owners are not required to occupy the residence. However, if you are applying for a mitigation payment for a permanent, habitable structure, you must submit proof that the home was habitable for some time between February 8, 2007, and January 26, 2010.

16. Question: What if I own more than one property within the program area?

Answer: If you meet all of the eligibility requirements for more than one property within the program area, you will receive the appropriate payment for each eligible property. However, in order to participate at all, an easement must be recorded for all properties.

17. Question: Are there tax consequences for receiving payment for this program?

Answer: We believe that a payment received by an owner for granting an easement reduces the owner's "basis" in the property, which affects gain or loss when the owner sells it. However, the Port Authority is not a tax advisor and cannot provide any guidance on tax matters, and so we strongly urge you to consult with a tax attorney, or other tax adviser for questions concerning the tax implications of your program participation.

18. Question: What if I choose not to participate in the Port Authority's program?

Answer: If you do not timely apply, you will give up your opportunity to participate in this program; however, you do not give up any other rights you have. Since this program was developed by the Port Authority to help fulfill its good neighbor responsibility to mitigate impacts of the Bayport Container and Cruise Terminal, after it expires, no similar program will be in place.

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19. Question: If my property is within the sound impact boundaries and I have not received notice from the Port Authority, what do I do?

Answer: The sound impact boundary map can be found at www.bayportmitigationsolution.com. Please call 713-670-2831 for verification, and an application packet, if you are eligible and do not receive one.

20. Question: Will my mortgage company be required to consent to the easement?

Answer: Lender consent will be dictated by the terms of each property owner's deed of trust or mortgage document. Property owners may be required to obtain and present evidence of lender consent prior to signing the easement.

21. Question: What if I am selling my property? Can I still participate in the program before I close the real estate transaction?

Answer: The Port Authority will conduct the program transaction with the current owner of the property, if all eligibility requirements are met, including ownership between February 8, 2007, and January 26, 2010. A new owner after that date is not eligible.