

May 7, 2010

NAME  
ADDRESS  
CITY, STATE ZIP

Re: Bayport Mitigation Solution Program

Dear NAME:

**IF YOU HAVE ALREADY RETURNED YOUR APPLICATION TO THE PORT AUTHORITY, PLEASE DISREGARD THIS LETTER.**

On March 10, 2010, the Port of Houston Authority (the "Port Authority") announced the mitigation solution of its Good Neighbor Program. Your\* residential property was identified as one of the 411 residential properties within the program area.

**On March 26, 2010, the Port Authority mailed you a Program Application and package.**

The Port Authority is mailing this letter as a courtesy to remind you that ***IN ORDER TO BE ELIGIBLE FOR PARTICIPATION IN THE PROGRAM, YOU MUST SUBMIT THE COMPLETED APPLICATION FORM TO THE PORT AUTHORITY NO LATER THAN 60 DAYS FROM YOUR RECEIPT OF THE PROGRAM INFORMATION PACKET.*** For your convenience, we have enclosed a duplicate application.

- **Payments.** As you know, under this program, the Port Authority will make \$40,000 program payments to eligible current owner(s) who timely apply and had a permanent, habitable structure in the program area between February 8, 2007 and January 26, 2010. Current owners who timely apply and had an eligible tax parcel in the program area, but without a permanent, habitable structure during this time period, can receive a \$5,000 program payment.
- **Easement.** In return, the Port Authority requires that the owner enter into an easement granting "permission" for the Port Authority to construct, develop, operate and maintain the Bayport Container and Cruise Terminal for lawful activities there. However, the easement does not give the Port Authority the right to enter onto your property, since it has no need to use it for terminal operations or development. See below for more information on the easement.
- **Mitigation Agreement.** Following receipt of your application, the Port Authority will send a Bayport Terminal Construction and Operations Mitigation Agreement, for you to sign and return.
- **Title.** The Port Authority will then work with a title company to review your property title and verify its ownership details. We advise you to determine prior to closing if lender consent is required. We are not responsible to obtain lender consent, but will coordinate with you and your lender in this process if you request.

---

\* "You", "Your", etc. identifies the eligible legal property owner.

- Closing. Once title is approved, you will sign the Bayport Program Easement Agreement at the title company (or other convenient location). The title company will transmit the mitigation payment to you, and record the easement.

**We also wanted to take this opportunity to focus on two “frequently asked questions:”**

1. Bayport Easement Agreement. The easement agreement does not give the Port Authority the right to enter your property at any time, or the right of “possession.” Neither does it alter your ability to use or build on your property. In this respect it is different from a road, pipeline, or utility easement.

However, it does constitute your legal “permission” for the Port Authority to construct, develop, operate and maintain the Bayport terminals, for lawful activities at the terminals. You are also giving up rights you may have to sue for these activities only. **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.**

Since the easement document will be recorded in title records, this permission and release binds not only you, but future owners of your property.

2. Mitigation Payment Tax Consequences. There may be tax consequences for receiving payment under this program: **we believe that such an easement payment reduces the owner’s “basis” in the property, which affects gain or loss when the owner sells the property.**

See: IRS Publication 551 (5/2002), Basis of Assets  
(<http://www.irs.gov/publications/p551/ar02.html#d0e1141>)

In other words, there may be tax implications when you sell your home.

See generally IRS Publication 523 (2009), Selling Your Home  
([http://www.irs.gov/publications/p523/ar02.html#en\\_US\\_publink1000200704](http://www.irs.gov/publications/p523/ar02.html#en_US_publink1000200704))

However, since the Port Authority is not a tax advisor and cannot provide any guidance on tax matters, we strongly urge you to consult with a tax attorney, or other tax adviser for questions concerning the tax implications of your program participation.

We look forward to your program participation. If you have any questions or concerns, please contact me at (713) 670-2678 or [lbrown@poha.com](mailto:lbrown@poha.com).

Sincerely,

*Linda Brown*

Linda Brown  
Mitigation Program Coordinator

Enclosure