

The county has created a web page for the FIMI project. It shows FAQs, ROE samples, Easement Samples, and Flowcharts for different situations.
<http://www.suffolkcountyny.gov/fimi>

This email is concerned with putting to rest some rumors regarding ROEs and Easements:

Rumor #1: If a homeowner signs the Easement, the homeowner is no longer allowed to have a contractor of his choice go onto the property to make any repairs or building. Also rumor that by signing this , then if the dune line changes again, they have the right to take the house if more than 50% of the property is destroyed.

Reality: The first point is completely false. No restrictions on contractors or the homeowner's repair choices.

The second point is partially correct, but has nothing to do with the FIMI project. Most, if not all, oceanfront homes are in the Coastal Erosion Hazard Area (CEHA). The CEHA has been in place for almost two decades, and those homes in the CEHA have certain restrictions placed on them. One restriction is that if the home is damaged by more than 50%, than it cannot be rebuilt. So that risk is current and independent of the FIMI. There has been talk of the State moving the CEHA line north for all of Fire Island, which would impact more homes; but it is always their right to reevaluate and adjust the CEHA line, and they have not done it since its inception in the late 1990s.

Rumor #2: By signing this, you are selling your soul to the devil , who wants eventually to take all the houses away.

Reality: The Right of Entry (ROE) has no property impacts. It simply allows the surveyor to come onto the property. The Easement does restrict development rights for new construction, but only in the easement area, where construction is not allowed in most cases by zoning codes anyway.

Rumor # 3: Contractors would not be allowed to work on any oceanfront properties without the government agency allowing it, and that the homeowner would not have a leg to stand on.

Reality: Simply not true. Just a rumor. If there is any structure that has to be moved as part of the FIMI project - let's say for example, relocate a part of the deck from the front to the back -, that becomes the Army Corps responsibility and they may well hire a contractor to do that. The Army Corps may use local contractors for that, and may even take recommendations from the homeowner. OR, they may reimburse the homeowners to have the work done themselves. **But** this is only relevant for FIMI

project related work. Ongoing repairs to existing structures by the homeowner are not restricted by signing the ROE or easement.

What follows is clarification about the repair of pre-existing structures currently located in the easement area (between the landward toe and the landward crest).

First of all, the language in the easement (item #6) clearly gives these structures the right to remain in their current size and configuration as documented on their survey (Exhibit A), as follows:

#6. Notwithstanding the foregoing, Grantor’s pre-existing structure(s) located wholly north of the landward crest of the constructed dune in the Easement Area as identified in Exhibit A may remain and will be subject to Coastal Erosion Hazard Area (CEHA) and regulations of the New York State Department of Environmental Conservation and/or other agencies and local governments having jurisdiction.

In other words, the pre-existing structures may remain and be subject to the exact same codes and regulations that currently govern the majority of them already (CEHA, Town, DEC).

Secondly, the CEHA language about normal permitted repair and maintenance is as follows:

DEFINITION OF NORMAL MAINTENANCE in CEHA Regulations:

“Periodic replacement or repair of same-kind structural elements or protective coatings which do not change the size, design or function of a functioning structure. A functioning structure is one which is fully performing as originally designed at the time that normal maintenance is scheduled to begin. Normal maintenance of a structure does not require a Coastal Erosion Management Permit.”