



# HONKAMP KRUEGER & CO, P.C.

*CPAs & Business Consultants*

May 28, 2013

Dear Flood Mitigation Board member:

The Flood Mitigation Board is my first experience in establishing rules from State legislation. On my own, I asked an experienced Des Moines attorney to read section 418.9 of the Flood Mitigation legislation, give me his opinion on the interpretation and our authority in establishing the rules.

Attached is his opinion.

Sincerely,

Arnie Honkamp

Encl.



**BrownWinick**  
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May 9, 2013

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Arnold Honkamp  
Chairman of the Board  
Honkamp Krueger & Co., P.C.  
2345 JFK Road  
Dubuque, IA 52002

RE: Iowa Flood Mitigation Program

Dear Arnie:

You have asked us to review Section 418.9(2)(d) of the Iowa Code, which limits the amount of funds cities can receive from the Iowa Flood Mitigation Program (the "Program"). Specifically, you have asked us whether that provision is susceptible to multiple reasonable interpretations and whether the board administering the Program has authority to interpret the statute as it deems most appropriate in light of the Program's overall purpose. It is our opinion that the statute is ambiguous, and as a result, the board may follow the reasonable interpretation that it deems most appropriate in implementing the Program.

The relevant portion of Section 418.9(2)(d) states: "The board shall not approve a project unless at least fifty percent of the total cost of the project, less any federal financial assistance for the project, is funded using local matching funds. . . ." This provision may be interpreted as limiting the amount of state Program funding for a project to the combined total of federal and local dollars allocated to the project. Alternatively, the provision may be interpreted as limiting the amount of state Program funding for the project to only the amount of local dollars allocated to the project. There is no indication on the face of the statute which of these interpretations the legislature intended. As a result, the statute is ambiguous.

Where a statute is ambiguous, the administrative body responsible for implementing the statute is entitled to interpret the statute as it deems most appropriate. Under Section 4.6 of the Iowa Code, factors to be considered in interpretation of an ambiguous statute include the purpose of the statute, the circumstances under which the statute was enacted, the legislative history, and the likely consequences of alternative interpretations. If the Program board determines that one interpretation will limit its ability to fulfill the purposes that the state legislature had intended in enacting Chapter 418 of the Iowa Code, the board may choose to administer the Program under the alternative interpretation of Section 418.9(2)(d).

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Please let us know if you have any additional questions relating to the interpretation of Section 418.9(2)(d) of the Iowa Code after reviewing this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Douglas E. Gross", with a horizontal line drawn through it.

Douglas E. Gross

DEG:cbl