

EXECUTIVE ORDER NO. 152

WHEREAS, beginning on October 28, 2012, and continuing through October 30, 2012, Superstorm Sandy struck the State of New Jersey, causing unprecedented damage and destruction; and

WHEREAS, many private homes and related buildings suffered significant damage as a result of Superstorm Sandy; and

WHEREAS, municipalities have been primarily responsible for facilitating the demolition of Sandy-impacted eligible structures, as defined below; and

WHEREAS, working with property owners, municipalities have made significant strides toward demolishing many of these structures; and

WHEREAS, despite these efforts, some Sandy-impacted eligible structures have yet to be demolished, thereby frustrating the State's continuing rebuilding and recovery efforts; and

WHEREAS, these structures present an ongoing emergency, including without limitation, constituting fire hazards, jeopardizing health and community safety by creating physical dangers, and/or increasing the risk of the spread of vector-borne diseases; and

WHEREAS, no local entity is suited to remediate this problem and, therefore, it is necessary for the State to take appropriate action to demolish these structures; and

WHEREAS, in light of the significant and widespread dangers posed by Superstorm Sandy, and in order to protect the health, safety, and welfare of the people of the State of New Jersey, on October 27, 2012, I signed Executive Order No. 104 declaring and proclaiming that a State of Emergency exists in the State of New Jersey; and

WHEREAS, in Executive Order No. 104 and in accordance with N.J.S.A. App. A:9-34 and -51, I expressly reserved the right to utilize and employ all the available resources of the State government and of each and every political subdivision of this State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency; and

WHEREAS, under N.J.S.A. App. A:9-40 and 9-45, I am authorized to make such orders, rules and regulations as may be necessary to adequately meet the various problems presented by an emergency; and

WHEREAS, under N.J.S.A. App. A:9-48, I am authorized to designate a person to take command of emergency management activities and to delegate to such person emergency powers granted me under that Act; and

WHEREAS, the Department and Commissioner of Community Affairs have the expertise, staff, and training needed to best deal with the various aspects of this issue;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the statutes of this State, do hereby ORDER and DIRECT:

1. For purposes of this Order the following terms shall have the meaning indicated:

a. "Commissioner" means the Commissioner of Community Affairs.

b. "Department" means the Department of Community Affairs.

c. "Property owner" means the owner of a property as indicated by a title search, or any person with legal authority to act on behalf of that person.

d. "Sandy-impacted eligible municipality" means a municipality located in one of the nine counties designated by the United States Department of Housing and Urban Development in its notice published in the Federal Register on March 5, 2013 (Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and Union).

e. "Sandy-impacted eligible structure" means any building that is unsound, unsafe, or in a state of disrepair to the extent that it has become uninhabitable due to damage reasonably shown to have been caused by Superstorm Sandy in a Sandy-impacted eligible municipality.

2. I designate the Commissioner to oversee the State's efforts with regard to the demolition of Sandy-impacted eligible structures.

3. I delegate to the Commissioner the power granted me under N.J.S.A. App. A:9-34 to commandeer Sandy-impacted eligible structures.

I further delegate to the Commissioner the authority to commandeer temporary rights of way on any property containing Sandy-impacted eligible structures that are necessary to demolish the structure, to facilitate demolition of the structure, or to carry out any other activities described in, or consistent with, this Order.

4. Identification of Sandy-impacted eligible structures:

a. The Department shall take reasonable steps to identify properties potentially containing Sandy-impacted eligible structures.

b. Code enforcement officials from the Department, or other qualified code enforcement officials designated by the Department that may include local code officials, shall be dispatched to each property reasonably identified as potentially containing a Sandy-impacted eligible structure. Where a code enforcement official determines that a property contains a Sandy-impacted eligible structure, he or she shall prepare a report that states the nature of the hazard or hazards resulting in the determination that the structure is a Sandy-impacted eligible structure.

c. Code enforcement officials from the Department, or other qualified code enforcement officials or their agents, guided by the procedures specified in N.J.S.A. 20:3-16, shall have the authority to enter onto any private or public property to perform the activities required by Paragraph 4.

d. The Commissioner may enter into such agreements with municipalities or other entities as the Commissioner deems useful or necessary to carry out activities pursuant to Paragraph 4.

5. Notices required after a structure is determined to be a Sandy-impacted eligible structure:

a. Notice to the Property Owner: The Department shall cause a title search to be performed to identify the property owner of the property containing the Sandy-impacted eligible structure. Notice of the Sandy-impacted eligible structure determination shall be served on the property owner by personal service within the municipality where the structure is located. If the property owner cannot be found

within the municipality where the structure is located after diligent search, then the notice shall be sent by registered or certified mail to the last known address of such person, as on file with the office of the tax collector, and a copy of the notice shall be posted in a conspicuous place on the premises. All subsequent notifications to the property owner required by this Order shall be made by registered or certified mail to the last known address, or to an address provided by the property owner.

b. The notice shall specify that within fifteen calendar days from the date the notice is served, the property owner must declare his or her: (A) acceptance of the terms of requirements in the notice and preference for the State to demolish the Sandy-impacted eligible structure pursuant to the provisions of this Order; (B) acceptance of the terms of requirements in the notice and preference to perform the required demolition himself or herself; or (C) rejection of the terms of requirements in the notice. The notice shall include a telephone number and email and mailing address where responses from property owners to the notice can be sent.

c. The Department shall attach a form to the notice to be completed by a property owner who accepts the terms of the notice and indicates a preference to have the State demolish the structure pursuant to the provisions of this Order. The form shall specify the conditions described in this Order that would follow from authorizing the State to perform the demolition pursuant to this Order. The form shall contain such other information as the Department deems appropriate to facilitate the demolition of structures consistent with this Order.

d. If the property owner accepts the terms of the notice but indicates his or her intent to demolish the Sandy-impacted eligible structure without the State's assistance, the Department shall notify the property owner in writing that he or she has 90 calendar days from the date of such notice to perform the required demolition of the Sandy-impacted eligible structure, or else the Department will proceed

with demolition pursuant to Paragraph 7 of this Order. Such notice shall indicate that the property owner may request in writing from the Department reasonable extensions of the 90-day demolition period and shall specify a process for the property owner to make such requests. The Department shall exercise discretion in determining whether to grant or deny extension requests, and may request in writing, if necessary, documentation or other proofs from the property owner to inform the decision. No extension requests shall be granted beyond 180 calendar days from the date of the notice described in this Paragraph, absent a showing of good cause.

e. The notice shall indicate that, at any time during this process, the property owner may complete and submit to the Department the consent form described in Paragraph 5(c), and thereby consent to the State performing the demolition of the structure pursuant to this Order.

f. If the property owner rejects the terms of the notice, the Department shall notify the property owner in writing that, to prevent the demolition, within fifteen calendar days of the date of the notice provided by this Paragraph the property owner must submit a challenge to the Sandy-impacted eligible structure determination, pursuant to Paragraph 9.

g. Notice to Lien Holders: Contemporaneous with the issuance of notice to the property owner of the Sandy-impacted eligible structure determination, notice of the Sandy-impacted eligible structure determination shall be sent to any lien holder shown by the title search as having an interest in the property. Notice shall be sent by registered or certified mail to the last known address of each lien holder or may be affected by sending the notice by registered or certified mail to an address specified by the lien holder.

h. Upon receipt of the notice, a lien holder may request in writing, within fifteen calendar days of the date of the notice, that the Department delay demolishing the Sandy-impacted eligible structure for a period not to exceed ninety calendar days from the date of the

notice. The property owner shall be copied on any such request. The Department shall grant such requests upon good cause shown. If such request is granted, the Department shall so notify the property owner. No extensions of this ninety-day period shall be permitted, except upon a showing of good cause.

6. Demolition of structures by consent of the property owner:

a. A property owner may consent to the demolition of the Sandy-impacted eligible structure identified in the notice by providing the Department with the form described in Paragraph 5(c). Upon receiving the form, the Department shall notify any lien holders identified in the title search of the property owner's consent to demolition. Notice shall be provided to the lien holders pursuant to the process described in Paragraph 5(g).

b. A property owner who consents to the demolition of the Sandy-impacted eligible structure waives any legal claim for just compensation or other relief in law or equity in connection with any activity relating to the demolition.

c. The Department may proceed with the demolition in accordance with the provisions of this Order.

7. Demolitions of structures without consent of the property owner:

a. If a property owner does not consent to demolition of the Sandy-impacted eligible structure by the State, and timely initiates a proceeding to challenge the Sandy-impacted eligible structure determination pursuant to Paragraph 9, demolition of such structure shall not proceed unless and until the proceeding concludes with a final agency determination that the structure to be demolished is a Sandy-impacted eligible structure. Following a final agency determination that a structure is such, the Department may proceed with demolition of the structure in accordance with the provisions of Paragraph 6.

b. No demolition activities, with the exception of an appraisal by the Department described in Paragraph 10, may occur

within twenty-one calendar days of the date of the final agency determination described in Paragraph 9. During that time, the property owner shall have the opportunity to perform an appraisal of the structure to be demolished, at his or her expense. The property owner may request that the Department provide a reasonable extension of the twenty-one-day appraisal period, which the Department should grant upon good cause shown. In no circumstance shall the total time allowed for an appraisal by the property owner exceed sixty calendar days. Upon request, the property owner shall provide to the Department any appraisal of the structure obtained in connection with the demolition of the Sandy-impacted eligible structure pursuant to this Order.

c. Upon satisfying the notice requirements, the Department shall be authorized to enter onto the property as necessary to take all reasonable steps to demolish the Sandy-impacted eligible structure and remove the resulting debris.

8. Demolition of structure where property owner fails to act:

a. If a property owner fails to timely respond to the notice provided pursuant to Paragraph 5(a) with regard to the demolition of the Sandy-impacted eligible structure by the State or fails to timely initiate a proceeding pursuant to Paragraph 9 to challenge the Sandy-impacted eligible structure determination, the Department may proceed with the demolition of the Sandy-impacted eligible structure in accordance with the provisions of Paragraph 7.

b. Upon satisfying the requirements in subparagraph a, the Department shall be authorized to enter onto the property as necessary to take all reasonable steps to demolish the Sandy-impacted eligible structure and remove the resulting debris.

9. Process for challenging a Sandy-impacted eligible structure determination:

a. A property owner seeking to challenge a Sandy-impacted eligible structure determination shall have the right to apply to the

Department for a hearing. Such a hearing shall be held within fourteen calendar days of the Department's receipt of such a request.

b. At the hearing, the property owner shall have the opportunity to present evidence that the structure at issue is not a Sandy-impacted eligible structure. The Commissioner shall render the final agency determination as to whether the structure at issue is a Sandy-impacted eligible structure based on the evidence provided by the Department and by the property owner at the hearing.

c. If the property owner prevails in a proceeding filed pursuant to Paragraph 9(a), no demolition can proceed under this Order. The property owner cannot recover money damages, costs, or fees.

d. If the State prevails, the demolition of the Sandy-impacted eligible structure shall proceed in accordance with this Order. The State shall not be entitled to recover costs or fees.

10. Appraisals. Before performing any demolition without consent, the Department shall cause to be obtained a qualified, independent appraisal of the Sandy-impacted eligible structure. The Department shall notify the property owner of the intended entry for purposes of performing the appraisal by sending a notice to the property owner at least ten calendar days prior to performing the appraisal. Additionally, before performing any demolition without consent, the Department shall cause to have competing appraisals reviewed by an individual with appropriate qualifications to review appraisals and such review shall be binding on the Department.

11. The Department of the Treasury shall procure and enter in accordance with the requirements in existing statutes on behalf of the Department any contracts necessary to plan for the demolition of, and to demolish, Sandy-impacted eligible structures identified by the Department in a manner consistent with this Order.

12. Except as provided in Paragraph 6(b), nothing in this Order shall be construed to deny to any person who has an interest in the property containing the Sandy-impacted eligible structure the right to

obtain therefor future payment of the reasonable value of such structure. No compensation shall be granted to any individual to the extent that the action of the State does not amount to a taking of property but to a reasonable regulation of property pursuant to a proper exercise of the police power. Furthermore, to the extent federal recovery funds are used to pay for the activities described in this Order, activities shall comply with the federal Uniform Relocation Act, where applicable.

13. Nothing in this Order should be construed to waive or modify any other statutory or regulatory authority that could be invoked by the Commissioner, the Department, or a municipality to facilitate the demolition of Sandy-impacted eligible structures, including but not limited to authority provided by the Uniform Construction Code. Moreover, nothing in this Order should be construed to limit the Commissioner, the Department, or a municipality from working with a property owner to secure an understanding whereby the property owner agrees to reasonably address the condition of the Sandy-impacted eligible structure within a reasonable period of time under the circumstances.

14. The Department is authorized to call upon any department, office, division, or agency of this State for information or assistance as deemed necessary to discharge the duties of the Department under this Order. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Department and provide such assistance as is necessary to accomplish the purpose of this Order.

15. This Order shall take effect immediately.

GIVEN, under my hand and seal this
28th day of February,
Two Thousand and Fourteen, and
of the Independence of the
United States, the Two Hundred
and Thirty-Eighth.

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor