

IBA Housing Protection Fund Guidelines and Application Process

To: Prospective Applicants To IBA's Housing Protection Fund
From: Rick Wajda, CEO
Re: Housing Protection Fund Guidelines and Application Process

Purpose The Housing Protection Fund exists to help our members address major regulatory issues that affect our members ability to build affordable, quality, and safe homes in the state of Indiana.

Attached are the IBA guidelines for assistance and an application form. All applications for assistance from IBA's Housing Protection Fund ***must come from a local building association in Indiana and not from an individual member.*** Pursuant to guidelines number 7 & 10, only in exceptional cases will the Housing Protection Fund Board of Trustees consider funding a case that does not come from a local HBA.

The Housing Protection Fund Board of Trustees meets during regularly scheduled meetings of the IBA Board of Directors. Applications must be submitted **no later than fourteen days prior to the Housing Protection Fund's scheduled meeting.** Applicants will need to submit the application form and a concise statement explaining the following points (supplemental information may be provided anytime up to the HBA's presentation before the Board of Trustees):

- a. a summary of the facts involved in the request;
- b. what legal issues are involved and what relief or remedy is being sought;
- c. if a case has been filed, what is the status (what court it is in; if appellate, what was the trial court's decision; what is rough timetable of future events);
- d. describe how the resolution of this problem is of regional or statewide importance to the housing industry;
- e. what is the anticipated cost to resolve problem either through litigation or other arenas;
- f. the financial commitment of the local HBA or a statement explaining the reason(s) why funding is not forthcoming;
- g. whether there has been prior IBA assistance for this case; and
- h. the amount of money being requested from the IBA.

All of these points must be addressed in full to constitute a complete application. Only complete applications will be placed on the agenda of the Housing Protection Fund Board of Trustees.

In addition to the above statement, which should be submitted in the form of a cover letter, the following **must be included**, as applicable: copies of any substantive pleadings or other legal filings of **both sides**; and copies of any court decisions to date. Also include any other pertinent papers that would be helpful to the staff and Board of Trustees in better assessing the request or understanding its background, including newspaper articles, letters, etc. The best applications are those that explain the facts, the legal issues, and the importance of the action to the housing industry in Indiana in as clear and concise terms as possible.

Please note that under guideline 8 if a dispute is settled or discontinued, the remaining funds are to be returned to IBA. With the exception of guidelines 1, 3 and 4, the Board of Trustees generally interprets the guidelines broadly.

The Board of Trustees prefers to have someone present at the meeting to argue for the application receiving financial assistance and to answer any questions that the members may have. However, it is not usually necessary to send counsel to this meeting, which should save legal fees and expenses.

In addition to the attached guidelines, the Housing Protection Fund Board of Trustees generally operates with the following three goals. Your application has a higher chance of receiving a grant if the request is related to these operating goals.

1. The IBA Housing Protection Fund exists to support actions that will benefit the housing and building industry throughout Indiana.

2. If litigation is an option, the two types of cases that take priority over all others are (a) structurally sound cases, from both a factual and legal viewpoint, and (b) potential cases where a complaint has yet to be filed and IBA has the opportunity to assist in structuring the lawsuit.
3. The IBA Housing Protection Fund should be used primarily in a proactive role. This includes research, consulting of housing related issues, education, and professional testimony. If litigation is an option, high quality litigation that addresses major industry issues will be sought, rather than reacting to existing cases where there is little or no opportunity to assist litigant in structuring the lawsuit.

Staff at IBA is available to make this simple application process as easy as possible for the petitioning association. If you have any questions about the funding process, the particular litigation in question or other legal services we can provide, please feel free to call me at 1-800-377-6334, or 317-236-6334.

GUIDELINES FOR IBA'S HOUSING PROTECTION FUND AS APPROVED BY THE INDIANA BUILDERS ASSOCIATION

1. Financial assistance is available for actions dealing with matters of statewide significance. Matters of regional or local assistance will be considered for less comprehensive assistance.
2. The amount of assistance for each request will be determined as follows:

a. Up to <u>\$2,500</u>	Discretion of the Chairman
b. Up to <u>\$25,000</u>	Majority approval by Board of Trustees
c. <u>\$25,000</u> and Up	Majority approval by Board of Trustees, IBA Executive Committee and IBA Board of Directors
3. Generally, funding will not be provided unless the local HBA or members participation is provided. The IBA Housing Protection Fund application materials must include a statement of financial support, both received and projected from the local HBA and its' members. If there is no financial support, the statement must explain the reasons why.
4. The request for assistance shall be made prior to or early in the litigation. Applications for assistance in pending litigation will be considered only in cases of exceptional merit.
5. Requests for assistance must be made only by the local HBA with local HBA Board of Directors approval (except as noted in #10 below), and shall be submitted in writing to the Trustees staff and accompanied by suitable documentation in supporting the request. Applications should include a summary statement of the facts, the legal issues involved, and the impact upon the industry. Requests may be referred to an appropriate committee for comment. After receiving all appropriate information, comments and recommendations, IBA Housing Protection Fund staff will submit all requests for assistance to the Housing Protection Fund Board of Trustees for consideration. A representative of the local HBA may be asked to present the request to the Trustees.
6. Requests for assistance should be submitted to staff at least 14 days prior to any scheduled meeting of the Board of Trustees. The Board of Trustees may call a special meeting 30 days after receipt of a request for assistance provided extenuating circumstances can be shown. In some instances, if proper presentation can be made via fax, e-mail, or mail, Housing Protection Fund Trustees may be asked to vote via fax or e-mail.
7. In some instances, the Board of Trustees may authorize funding to enjoin IBA in action having statewide significance to housing without the approval of the local HBA. (Examples of this include funding of state legislative actions for the benefit of the industry; friend of the court briefs in other litigation.)
8. Any sums allotted by the Trustees shall be advanced on the express understanding that the action for which sums are advanced shall be carried to completion. Should early resolution be obtained, the unused funds shall be returned. If litigation is involved and the litigant who is supported by a grant receives an award of attorneys fees in the subject litigation, the grant shall be returned to IBA on the following basis [(fee awarded/fees billed) x IBA grant = amount returned to IBA].
9. Any local association receiving financial assistance under these guidelines shall, until conclusion, provide a written status report to the IBA Housing Protection Fund staff 14 days prior to each subsequent Board of Trustees meeting.
10. In rare instances, the Trustees shall have a request for assistance from an individual member without authorization from the local HBA. This could occur when there is a dispute of obvious statewide significance. The primary purpose of the hearing would be to gather information that would be helpful in influencing the local HBA to support the action.

11. Assistance could be provided in the following areas.

A. Impact Fees

1. IBA will support no change in the state law regarding impact fees.
2. IBA will be proactive in helping communities locate broad base and appropriate sources for funding needed infrastructure.
3. IBA will promote efforts that allow communities to make restitution's for illegally charged fees prior to pursuing remedy by litigation
4. IBA will support efforts to ensure that funds recovered are returned to the homeowners who paid the fee.
5. IBA will support legal action against local units of government which collects fees contrary to state statute.
6. IBA will maintain a Housing Protection Fund.

B. Moratoriums

IBA will support efforts to vigorously oppose illegally imposed moratoriums on new construction.

C. Constitutional Violations

IBA will oppose the illegal taking of land as a condition of exercising the right to develop land for its highest and best use.

D. Exclusionary Zoning

E. Comprehensive Planning

F. Subdivision Control

G. Farmland Preservation

H. Utilities

I. State Regulatory Agencies

J. Sign Ordinances

K. Property Taxes

L. Other issues affecting housing affordability in Indiana

M. Allocations for investments in staffing of IBA employees that work in governmental and regulatory affairs with the approval of the Trustees in concurrence with IBA's Senior Officers

12. Provide public testimony and research to affect the formation of public policy.

ORGANIZATION

A. IBA President appoints Chairman of the IBA Housing Protection Fund. Chairman is also a voting Trustee.

B. Chairman appoints the following Trustees:

- Vice-Chairman
- 2 IBA Senior Officers
- 2 IBA Past State Presidents
- 1 Associate Member
- 1 Land Use Committee Appointee
- 7 Appointees (up to)
- Support Staff (Non-Voting)

C. Trustees are the only voting members.

D. Non-voting Trustees may also be appointed by the Chairman.

E. Quorum constituted by 33% of voting members.

AMENDMENTS TO STANDARD OPERATING PROCEDURES; GUIDELINES AND APPLICATION PROCESS.

A. The Trustees may amend these documents from time to time, as they deem appropriate.

Submitted to: IBA Housing Protection Fund Board of Trustees (as of 11/7/2017)

By: David Compton, Chairman, IBA Housing Protection Fund
IBA Housing Protection Fund Board of Trustees