

**APPEAL PANEL DECISION FORM**

**I. CLAIMANT AND CLAIM INFORMATION**

|                      |                                     |                     |                      |
|----------------------|-------------------------------------|---------------------|----------------------|
| <b>Claimant Name</b> | Last/Name of Business<br>[REDACTED] | First<br>[REDACTED] | Middle<br>[REDACTED] |
| <b>Claimant ID</b>   | [REDACTED]                          | <b>Claim ID</b>     | [REDACTED]           |
| <b>Claim Type</b>    | Business Economic Loss              |                     |                      |
| <b>Law Firm</b>      | [REDACTED]                          |                     |                      |

**II. DECISION**

**Denial Upheld**

**Denial Overturned**

**III. PRIMARY BASIS FOR PANELIST DECISION**

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

**Claim should have been excluded.**

**Claim should have been denied.**

**Claim should not have been excluded.**

**Claim should not have been denied.**

**No error.**

**Comment (optional):**

On three occasions, the Claims Administrator denied the BEL claim of a gas station/car wash operator in ██████████. As a Zone C Claimant, the Administrator determined that the Claimant did not satisfy the causation requirements of Exhibit 4B. Claimant appeals, arguing that the Administrator erroneously placed it in Zone C instead of Zone B. Claimant also finds fault with the program accountant who reduced Claimant's revenue by the expenses incurred in connection with a gas discount program.

Claimant's business is located at ██████████ which lies immediately east of ██████████ and adjacent to the intersection of ██████████ and ██████████. ██████████ is the dividing line between Zone B to the south and Zone C to the north. There is no dispute that Claimant's business is physically located in Zone C. The basis of Claimant's appeal is that the Settlement Program failed to properly apply the Zone Classification and Implementation Rules in Exhibit 1C of the Settlement Agreement. These rules allow parcels that are not located within a zone to be added to that zone if certain criteria are met. These rules provide:

1. On surface roads only (e.g. Canal Street in New Orleans) the following parcels shall be included:
  1. Any parcel directly accessible to a surface road via a driveway, parking lot, or on-street parking.
  2. Any parcel with the road as a street address
2. On surface roads with exit ramps and frontage roads<sup>1</sup> (e.g. Highway 49 from Hattiesburg to Gulfport), the following parcels shall be included:
  1. Any parcel directly accessible to a surface road via a driveway, parking lot, or on-street parking.

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<sup>1</sup>A frontage road is defined as:

- a) the closest road running parallel to a limited access highway, and
- b) an access point that is no farther than 3/4 mile from the exit ramp right of way.

2. Any parcel with the road as a street address
  3. Any parcel on a frontage road within 2.0 mile from the exit ramp<sup>1</sup>
  4. Any parcel within a 0.25 mile radius from the end of each exit ramp right-of-way
3. On limited access roads (e.g. Interstate 10 and Interstate 65), the following parcels shall be included:
  1. Any parcel within a 0.25 mile radius from the end of each exit ramp right-of-way
  2. Any parcel on a frontage road within a 2.0 mile of the beginning access point of the frontage road<sup>1</sup>
4. If a road borders on 2 different types of zones, the parcels on this road shall be deemed to be within the more preferred zone (Example: Zone A over Zone B).

Claimant proffers a number of arguments regarding its street address, the nature of [REDACTED] Boulevard and its proximity to a frontage road and exit ramp. BP responds that [REDACTED] is not a surface road because it is an elevated, limited - access roadway. BP also argues that Claimant's parcel is not located within .25 miles of an exit ramp in Zone B. BP further contends that the only exit ramp within .04 miles is located north of Claimant's parcel which is in Zone C. Hence, BP argues that none of the exceptions that permit inclusion in Zone B can be satisfied.

Careful review of the zone map discloses that Claimant's property is a triangle shaped parcel bounded on the south by [REDACTED], on the west by [REDACTED] and its service road, and on the east by [REDACTED]. [REDACTED] is undisputably in Zones B and C as it forms the zone boundary. Section 4 of the zone implementation criteria provides that "If a road borders on two different types of zones, the parcels on this road shall be deemed to be within the most preferential zone." BP focuses its arguments on Claimant's [REDACTED] Boulevard street address but fails to address the fact that Claimant's parcel is also directly accessible to [REDACTED]

█. It appears that the Administrator likewise focused solely on Claimant's street address and in the process, overlooked the other geographic aspects of the location. This panelist concludes that the zone extension rules operate in Claimant's favor in this instance. This claim should have been treated as a Zone B business.

It is not necessary to consider Claimant's other assignment of error. There is no dispute as to Claimant's designation as a Tourism business. As such, Claimant is entitled to a presumption of causation as provided in Exhibit 4B(I)(4). This claim is therefore remanded with instructions to calculate the award and issue an Eligibility Notice.