



Gerald Herbert / Associated Press file photo

**Developers continue to build in the 500-year flood plain across the state, knowing that most buyers will not identify the danger. Rather than hiding the risks, landowners should work with lawmakers to reduce them, columnist Chris Tomlinson says.**

## TOMLINSON'S TAKE

# Home buyers, renters need to know flood risks

Owners of flooded property may feel a second financial loss if Texas lawmakers approve new disclosure requirements that will likely drive down home prices and leasing rates.

Home buyers and renters, though, need to know if they are moving into a dangerous location. These disclosures are necessary if we are to ever bring an end to reckless development and the misery that follows.

Every time a flood sends people fleeing, residents complain they had no idea that they lived in a flood plain, flood zone or floodway. If only they'd known, they would have never bought the property, rented the apartment, or perhaps, they would have bought flood insurance.

Texas law currently requires only that home sellers disclose whether a property is in a 100-year flood plain. The disclosure is intended to comply with federal law, which requires property owners to purchase flood insurance to qualify for a federally-backed mortgage.

Texas law does not require disclosure of whether a property is within a 500-year flood plain, a floodway or a reservoir basin.

Landlords are not required to disclose whether a property is at risk of flooding. The soonest a renter may know their building is in a flood plain is when water crosses the threshold.

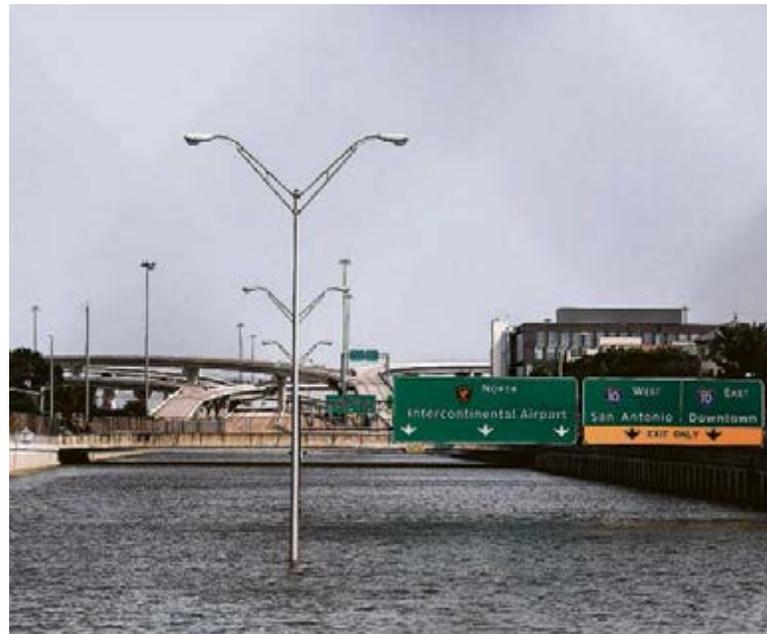
State Sen. Joan Huffman, a Houston Republican, has introduced Senate Bill 339 to require full disclosure of all known flood risks when selling a property.

"If the seller doesn't immediately disclose this information before a contract is signed, the buyer can terminate the contract



CHRIS  
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*Commentary*

**Beltway 8 was underwater days after Hurricane Harvey brought record rainfall on Sept. 6, 2017. The widespread flooding has prompted state lawmakers to take steps toward protecting home buyers and renters.**



Elizabeth Conley / Staff photographer

after the seller discloses this information," she explained in a statement. "If the seller fails to disclose this information before a sale and had actual knowledge of these facts, the buyer can initiate a civil action against the seller for misrepresentation."

Houston State Rep. Garnett Coleman, a Democrat, has introduced House Bill 993, which would require landowners to make similar disclosures before offering a lease, including whether a property has flooded before.

"Existing homeowners are going to have an issue when they go to sell their homes, particularly in the 500-year flood plain," said Stacy Thompson, an insurance attorney with Perry Law. "You're going to drive down the property values in those areas."

Lawmakers should expect an army of lobbyists representing real estate agents and developers

to fight against anything that could lower property values. Texas has a long history of putting the onus on buyers to figure out risks, even if it means spending taxpayer money to help flood victims afterward.

"We have a lot of people moving to Texas, especially to the Houston area where you are at sea level, virtually, who do not know this information," Thompson said. "The buyer isn't going to know where to go to get the information."

Developers continue to build in the 500-year flood plain across the state, knowing that most buyers will not identify the danger. Rather than hiding the risks, landowners should work with lawmakers to reduce them.

"Statewide flood mitigation costs over the next 10 years are estimated to be more than \$31.5 billion," according to the State

Water Development Board's annual report. "They do not account for projects associated with Hurricane Harvey recovery, other large federal projects such as the Coastal Spine or the third reservoir being discussed for the Houston area, or rehabilitation of high hazard dams within the state."

Flooding is a statewide problem, but the Legislature has failed to set clear goals. For example, do lawmakers want to protect lives and property from 100-year flood events or only 500-year flood events. The choice determines how many people die or how much taxes must rise.

The decision will also determine property values in flood zones.

The water development board made nine recommendations to the Legislature to improve mapping, planning and funding for mitigation. Lawmakers have introduced bills to implement some, but not all of the recommendations.

If the state is committed to protecting lives and property within the 500-year flood plain, then there is no need for disclosure. If state officials will guarantee that reservoir basins will never flood, there is no need for disclosure. If we're going to remove all homes from the state's floodways, then no need to add another box to the seller's disclosure form.

We all know, though, that Texas lawmakers will never spend enough money to remove all of those risks. So the only alternative is to require property sellers to disclose them, buyers and renters deserve to know.

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