

Memorandum

To: Managers and Owners

From: Patrick Barbolla

Date: December 23, 2021

Re: Required Notice of Property Located Within a Flood Prone Area.

The Texas legislature recently enacted a law to be effective for all leases or renewals signed on or after January 1, 2022. Due to certain renters suffering water damage from flooding and their complaint that they did not know their apartment community was located in a flood prone area, the legislature now requires notice to be given to a potential renter in a separate document and at or before a lease is signed.

Although the language of the law is somewhat ambiguous, the safest course of action is for every apartment complex to provide the notice to tenants that lease on or after January 1, 2022 (or any residents that renew their lease after January 1, 2022). The Notice merely lists the name of the apartment complex and provides two areas to checkmark: (1) whether the property is, or is not, located in a flood prone area as noted by FEMA, and (2) whether the property has flooded within the past 5 years. It may be necessary for you to check the FEMA website since many areas in Texas that were not located in a flood prone area 15- 20 years ago have been reviewed and are now located in flood prone areas.

If the Notice is not given and the property does flood, then the damaged tenant may cancel his/her lease from the date of the flooding.

