## 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.

## **NOTICE TO TENANT**

## Of Apartments

(100 Year Floodplain Notice Required by Texas Property Code § 92.0135)

For purposes of this Notice, (a) "100-year floodplain" means any area of land designated as a flood hazard with a one percent or greater chance of flooding each year by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.) and (b) "flooding" means a general or temporary condition of partial or complete inundation of a dwelling caused by: (i) the overflow of inland or tidal waters, (ii) the unusual and rapid accumulation of runoff or surface waters from any established water source such as a river, stream, or drainage ditch; or (iii) excessive rainfall.

_	ation of runoff or surface waters frage ditch; or (iii) excessive rainfal	rom any established water source such ll.
Pursuant to Texas F following:	Property Code Section 92.0135, L	andlord provides Tenant notice of the
year floodplain. If neithe floodplain. Even if the consuceptible to flooding. The map on its Internet website located in a flood hazard	r blank is checked you should a dwelling is not in a 100-year flue Federal Emergency Management that is searchable by address, at area. Most tenant insurance po	ng you are renting is located in a 100- ussume the dwelling is in a 100-year loodplain, the dwelling may still be ent Agency (FEMA) maintains a flood no cost, to determine if a dwelling is plicies do not cover damages or loss would cover losses caused by a flood.
Landlord is or within the last five (5) year	<del></del>	are renting has flooded at least once
	EMENT BY TENANT(S): 7 foregoing notice prior to executi	The undersigned tenant(s) hereby on of a written lease agreement.
Date	Tenant	Unit Number
Date	Tenant	Unit Number
Date	Tenant	Unit Number