



April 14, 2008

Floodway Coalition of Houston  
1501-A W. 18th Street #14  
Houston, TX 77008

Regarding: Diminution in property value and property taxes due to City of Houston Ordinance Chapter 19 (as amended October 2006) limitations on real property located in the floodplain and floodway in the City of Houston

Dear \_\_\_\_\_

Pursuant to your request, we have reviewed the impact of City of Houston Ordinance Chapter 19, as revised in October 2006, on property values and taxes. This ordinance limits the use of property in the floodplain and floodway in the City of Houston.

#### **Floodway properties**

The City of Houston does not allow construction of new improvements on land in the floodway in the City of Houston. In addition, there are restrictions placed upon existing improved properties in the floodway. If the improvements are substantially damaged for any reason (more than 50%), the owner is not allowed to renovate the improvements. In addition, improvements to existing properties may not exceed a cumulative total of 50% of their market value over a period of 10 years.

#### **Floodplain Properties**

There are also meaningful limitations for properties in the floodplain in the City of Houston. It is possible to build new properties in the floodplain provided the ground floor level is built an appropriate distance above the base flood elevation. However, if damage to the improvements of a property within the floodplain exceeds a cumulative total of 50% of the improvement value prior to the casualty, the owner is not allowed to renovate / repair the property (unless the floor level is elevated to above base flood elevation). This damage limit includes damages from any cause. It is not limited to damages caused by flooding. In most cases, it will not be financially feasible to raise the floor level of a property.

In addition, the owner of a property in the floodplain in the City of Houston is not allowed to spend more than 50% of the value of the improvements (at the time when the renovations begin) to repair or upgrade the property.

The limitation for properties in the 100-year floodplain is for properties with a ground floor level below the acceptable level. Newly built properties (built after new floodplain maps were released) were likely built a sufficient level above the base flood elevation. However, most properties built before the newly released floodplain maps were released are below the minimum level and would have to be raised before repairs subsequent to a repair exceeding 50% of the value of the improvements. (The preliminary version of revised floodplain maps were released in 2004. The final version was effective June 18<sup>th</sup>, 2007.)

### **Administrative Guidelines**

We understand the City of Houston reports there are administrative rules and regulations that allow renovations and repairs to properties in the floodplain. Based on discussions with legal counsel, we believe the city ordinance dominates when city ordinances and rules and regulations contradict each other. Based on discussions with real estate investors, real estate professionals and homeowners, they are likely to rely upon the ordinance instead of the rules and regulations.

There are very limited uses for land in the floodway as a consequence of City of Houston Ordinance Chapter 19, as revised in October 2006. The value of land is based on its utility and / or ability to generate income. The revised legally permissible uses are apparently limited to recreational and parking. Land that can be used for parking may have substantial value. However, when the only practical use is recreational, the value of land drops by more than 90%. This applies for land in the floodway in the City of Houston which is vacant and improved.

The impact on the value of improvements to land in the floodway and floodplain is more difficult to determine. A casualty for which the cost of repairs exceeds 50% of the improvement value will never occur for most properties. However, when such a substantial casualty does occur, the improvements become worth less than \$0. They have negative value equal to the cost of demolishing them.

### **Public Knowledge**

Knowledge of changes made to City of Houston Ordinance Chapter 19 in October 2006 has not been widely disseminated. Lenders, real estate brokers, homebuyers, real estate investors and appraisers are generally not considering the impact of the ordinance at this point. There is limited knowledge of the impact of City of Houston Ordinance Chapter 19 on land within the floodway in the City of Houston. Few are aware of the impact that changes in the ordinance have on improved properties in the floodway and floodplain.

The market value of property located in the floodway and floodplain will decline as knowledge of Ordinance Chapter 19 becomes commonplace. Due to the restrictions for renovations after a substantial casualty (cost to repair exceeds 50% of the value of improvements prior to the casualty), many potential purchasers will decline to consider purchasing properties in the City of Houston in a floodway or floodplain. There are an adequate number of properties available without the restrictions imposed by City of Houston Ordinance Chapter 19. The purchasers willing to risk a substantial casualty to properties in the floodway or floodplain will require a meaningful discount to compensate for the risk.

Our opinion is the value of land in the floodway is reduced by 94% in most cases. In atypical cases, an alternate use will mitigate the damages. This will most typically involve an adjacent user who seeks to use the land for parking.

We believe the market value of improvements on land in the floodway (in the City of Houston) will be reduced by 10% to 35% because of the restrictions in City of Houston Ordinance Chapter 19. We believe the market value of improvements in the floodplain (in the City of Houston) will be reduced by 10% to 25% as a result of the restrictions in City of Houston Ordinance Chapter 19.

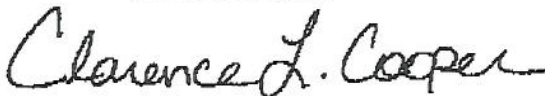
For example, assume a house in the floodway with a total value of \$200,000, including \$110,000 for land and \$90,000 for improvements (not considering the impact of the floodway). The value of the land is reduced to \$6,600 ( $\$110,000 - \$110,000 \times 94\%$ ) and the value of the improvements is reduced to \$72,000 ( $\$90,000 - \$90,000 \times 20\%$ , assuming a 20% loss in value), for a total revised value of \$78,600.

The restrictions in Ordinance 19 (as revised in October 2006) will reduce the market value of land and improvements in the City of Houston by \$1.9 to \$3.5 billion. Property tax revenue will be reduced by \$38 to \$70 million per year, assuming a net effective tax rate of 2% after exemptions.

Please call me if you have any questions or need clarification.

Sincerely,

O'Connor & Associates



Clarence Cooper  
Client Relations Manager