

To: NAR Insurance Committee Members
From: Steven Fischer, Chair, National Disaster Work Group
Subject: Interim Report

Purpose:

- Review NAR’s public policy positions on national disasters, including climate risk, sea level rise, pandemics and terrorism;
- Collaborate with other NAR policy committees in reviewing/developing any new positions; and
- Report back to the Insurance Committee with any major findings and/or recommendations.

Recommendations:

- **NAR National Disaster Policy.** The Work Group recommends no changes at this time.
- **Flood Factor on realtor.com.** On 10/28, the Work Group met with the First Street Foundation and realtor.com to continue discussing Flood Factor, an online flood risk assessment tool for home listings. The Work Group supports the effort and proposed allowing property owners to upload information about risk mitigation improvements (e.g., elevating the first floor above grade). The Work Group recommends continuing this dialogue as the First Street and R.com representatives expressed openness to fleshing out several options. NAR also expanded its member flood factor information packet based on work group feedback and posed a series of questions to the work group (please see below for the work group response).
- **“All Perils” Natural Catastrophe Insurance.** On 10/14 and 9/21, the Work Group met with Milliman consultants to review and discuss an actuarial analysis of expanding the National Flood Insurance Program to include additional natural catastrophe perils, including earthquakes, hurricanes, hail, tornados, and wildfires. The Work Group concluded that the research is clear, understandable and achieves the objective, which is to cost out a reasonable number of NFIP alternatives and effectively spread risk to the U.S. Next, Milliman will be presenting this research to the Insurance Committee.

Other Discussion Topics: Natural disasters & climate risk; insurance premium discounts for mitigation; and business Interruption Insurance for pandemics.

Meeting Dates: Sept. 9; Sept. 21; Oct. 14; and Oct. 28, 2020

Speakers:

- Debbie Neuberger & Gail Wu, realtor.com
- Matt Eby and Mike Amodeo, First Street Foundation
- Nancy Watkins and Dave Evans, Principal, Milliman Inc.

Work Group Members:

Steven Fischer (GA) - Chair	Pamela Hanson Carbone (RI)	Logan Morris (LA)
Mabel Guzman – Vice Chair	Dutch Dechert (NJ)	Peyton Norville (AL)
Nate Johnson (MO) – Liaison	Annie Engel (PA)	Ted Oatts (OH)
Christina Asbury (NC)	Craig Foley (MA)	Donna Smith (SC)
Mark Ashworth (NV)	Brandi Gabbard (FL)	Gary Thomas (CA)
Ken Austin (MS)	Susan Gaston (VA)	Tom Torgerson (ID)
Budd Batterson (MN)	Greg Larson (ND)	Maria Wells (FL)
Shad Bogary (TX)	Bill Leininger (MT)	

APPENDIX I: WORK GROUP RESPONSE TO NAR FLOOD FACTOR QUESTIONS:

1. Is Flood Factor consistent with NAR policy, which supports efforts to improve flood risk mapping and transparency?

Yes. Flood Factor maps are based on a similar science-based methodology to FEMA's but includes more flood sources (tidal and pluvial risks) and maps much more of the country. Flood Factor also promotes transparency by raising overall flood risk awareness while enabling more home buyers to perform due diligence and consult flood risk experts, including licensed surveyors, insurance agents and government floodplain managers when Flood Factor or FEMA maps indicate a higher risk.

2. Is Flood Factor a credible flood risk assessment tool to educate consumers?

Yes. Flood Factor was developed by more than 80 flood risk experts and scientists based on extensive peer-reviewed, journal-published research. First Street demonstrated the accuracy of the information relative to FEMA maps based on multiple QA/QC checks and validation methods including comparison with satellite imagery of more than 40 floods, post hurricane news reports, NFIP claims and disaster aid data, 311 flood complaints, etc.

3. Is there additional clarification that can be provided to address member concerns over properties built above grade?

Yes. First Street demonstrated how Flood Factor is more current, complete and accurate than FEMA maps but noted that the staff are always working on site improvements to address any data limitations, measurement errors or uncertainties inherent to flood modeling. For instance, Work Group members noted that Flood Factor measures at the lowest point of the building footprint, which may or may not adequately characterize the risk for the approximately 2 percent of properties located in special flood hazard areas, where new construction must be built to at least the 100-year or "base" flood elevation. In order for homeowners to add possible selling points to Flood Factor, Work Group members proposed several options, including:

- a) Allowing property owners to describe home mitigation improvements on Flood Factor, including when the first floor is elevated above grade on Flood Factor;
- b) Allowing owners to upload official FEMA elevation certificates and letters of map amendment;
- c) Providing a prominent disclaimer that Flood Factor does not account for first floor elevations;
- d) Indicating whether a property's flood factor is being contested and under review; and
- e) Marking a property with a symbol, like a M stamp, to show that mitigation improvements have been done on this property that may reduce the risk of damage from flood.

Adding features like these could also enable real estate professionals to add value for clients although any such options should carefully consider and conform to NAR's Code of Ethics as well as any related state consumer or disclosure laws.

4. How should real estate agents advise clients when flood factors don't match their experience with flooding?

NAR has provided member legal guidance on how to talk with customers about Flood Factor ([read the guidance](#)). In short, real estate professionals are property information resources, not flood risk experts

and as always, should avoid advising clients on matters outside the real estate license and training. When there are questions about Flood Factor, clients should consult qualified flood risk professionals, including licensed surveyors, professional engineers, home inspectors, government floodplain managers and insurance agents. Members may also be ready to offer contact information for such professionals.

5. Is there a process for consumers to clarify and update Flood Factors based on elevation certificates?

Yes. R.com and First Street have developed a joint “escalation” process by which consumer can obtain and provide information in order to clarify and correct home flood factors. However, it is not clear on Flood Factor whether there is an escalation process or not, or what this process involves. The Work Group recommended that both groups outline the process, including how to initiate a review, what a review involves and what information will be accepted and considered by the groups, how long reviews take and possible outcomes ranging from reaffirming or adjusting home flood factors on listings.

APPENDIX II: NAR FLOOD FACTOR-RELATED RESEARCH

"Father REALTOR®" Chadbourn's original words in 1922:

"The word REALTOR® signifies more than merely board and national association membership, the true REALTOR® is a man of high ideals. He has made the Code of Ethics of the national association a part of his personal code of honor. He would rather lose a record-breaking commission than violate his own conscience..."

NAR policy supports "full transparency, state disclosure requirements and accurate hazard mapping so consumers can make informed, responsible risk decisions." This reaffirms policies going back to 1990.

2020 State Disclosure Law Survey: <https://www.nar.realtor/national-flood-insurance-program/state-flood-hazard-disclosures-survey>

Compilation of Lawsuits: <https://www.nar.realtor/washington-report/flood-case-law-study-released>

History of NAR's role in championing state property condition disclosure laws:

<https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3Abe89851e-2521-4e5a-81ec-54c92d6d623e#pageNum=1>

Original 1991 PAG Report addressing the member concerns with NAR's decision to lead the charge for state disclosure laws, including numerous parallels to Flood Factor nearly 30 years later.

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:1ee3f97b-f0a7-4c0f-a3f2-800e026cdc19#pageNum=1>

Current NAR's Code of Ethics and Arbitration Manual (p. 53):

"Article 2 of the National Association's Code of Ethics obligates REALTORS® to refrain from exaggerating, misrepresenting, or concealing pertinent facts related to a property or to a transaction... The Code of Ethics, which frequently establishes duties and obligations higher than those required by the law, must give way when those obligations conflict with the law. If the law prohibits disclosure of certain types of information to, for example, potential purchasers, then the Code of Ethics must not, under any circumstances, be read as requiring such disclosures.

"At the same time, where the law simply provides that there is no express or implied duty to discover or disclose pertinent factors, the duties imposed by Article 2 come into play. Absent a legal prohibition, any material fact that could affect a reasonable purchaser's decision to purchase, or the price that a purchaser might pay, should be disclosed as required by Standard of Practice 2-1 if known by the REALTOR® unless, again, otherwise prohibited by law or regulation. Such factors include, but are not limited to, those factors that might affect the habitability of the property. Other factors that do not affect the habitability of the property may nonetheless have an effect on the desirability of the property, the price a reasonable purchaser might pay for it, or the potential purchaser's ability to resell the property at a future date."

Negative media attention on flood risk disclosure: <https://www.npr.org/2020/10/20/921132721/living-in-harms-way-why-most-flood-risk-is-not-disclosed>

QUICK FACTIVA SEARCH ON "FLOOD RISK DISCLOSURE":

[Living In Harm's Way: Why Most Flood Risk Is Not Disclosed](#)

NPR: All Things Considered

2. , 20 October 2020, 1243 words, (English)

TONYA MOSLEY: It's an increasingly common story in a hotter America. The rain starts falling and doesn't stop. (SOUNDBITE OF ARCHIVED RECORDING)

[EDITORIAL; Require sellers to disclose home flooding](#)

Daily Commercial

3. , 12 November 2019, 534 words, (English)

Want to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

[Editorial - Sellers should be required to reveal flood risk for homes](#)

Treasure Coast Newspapers

4. , 12 November 2019, 593 words, (English)

Want to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

[Flood Disclosure Law](#)

Qatar Tribune

5. , 12 November 2019, 579 words, (English)

WANT to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

[How They See It; Require sellers to disclose a home's flood history](#)

6. Times Record

, 10 November 2019, 576 words, (English)

Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real estate scam is truer than ever.

[Make sellers disclose home's flood history](#)

Lake City Reporter

7. , 10 November 2019, 586 words, (English)

Want to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

[Require sellers to disclose a home's flood history](#)

The Decatur Daily

8. , 10 November 2019, 589 words, (English)

Sun SentinelWant to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's ...

[Don't scam Florida home buyers. Require sellers to reveal a home's flooding risk | Opinion](#)

The Miami Herald

9. , 10 November 2019, 632 words, (English)

Want to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

[State should require sellers to disclose a home's flood history; South Florida Sun Sentinel Editorial](#)

Orlando Sentinel

10. , 9 November 2019, 668 words, (English)

Want to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

11. **[State should require sellers to disclose a home's flood history; Sun Sentinel Editorial](#)**

South Florida Sun-Sentinel

, 8 November 2019, 663 words, (English)

Want to buy some Florida swampland? You could, without knowing it. And nobody has to tell you. Because our state provides no safeguards for people who may unwittingly buy homes that repeatedly flood, the cliché about Florida's classic real ...

[**A Mix of Flood Insurance Reforms**](#)

Insurance Journal

12. , 1 April 2019, 2545 words, (English)

Conservation, CarFax-Like Disclosure, Means-Test for Rates Up for Discussion
The federal flood insurance program has a knack for inspiring ideas from reformers across the political spectrum on how to improve government.

[**Conservation, CarFax-Like Disclosure, Means-Test in Mix of Flood Insurance Reforms**](#)

Insurance Journal

13. , 21 March 2019, 2545 words, (English)

The federal flood insurance program has a knack for inspiring ideas from reformers across the political spectrum on how to improve government.

[**House Financial Services Committee Hearing; "Preparing for the Storm: Reauthorization of the National Flood Insurance Program."; Testimony ...**](#)

Congressional Documents and Publications

14. , 13 March 2019, 1910 words, (English)

Introduction Chairwoman Waters, Ranking Member McHenry, and members of the Committee, on behalf of 1.3 million members of the National Association of REALTORS, thank you for inviting me to testify regarding draft legislation to reauthorize ...

[**U.S. News: Flood Hazards Aren't Always Disclosed**](#)

The Wall Street Journal

15. , 18 December 2017, 654 words, (English)

When Emilie Hayes and her husband bought a home in St. Louis in 2005, they weren't worried that it was in a 100-year floodplain. She took it to mean the property would get flooded once a century.

[**Flood Hazards Aren't Always Disclosed -- WSJ**](#)

16. Dow Jones Institutional News

, 2:32, 18 December 2017, 1059 words, (English)

This article is being republished as part of our daily reproduction of WSJ.com articles that also appeared in the U.S. print edition of The Wall Street Journal (December 18, 2017).

[A Home Buyer's Nightmare: Moving to a Flood Zone Without Knowing It; There are no federal laws requiring home sellers to disclose if their...](#)

The Wall Street Journal Online

17. , 7:00, 17 December 2017, 1038 words, (English)

When Emilie Hayes and her husband bought a home in St. Louis in 2005, they weren't worried that it was in a 100-year floodplain. She took it to mean the property would get flooded once a century.

[A Home Buyer's Nightmare: Moving to a Flood Zone Without Knowing It](#)

Dow Jones Institutional News

18. , 7:00, 17 December 2017, 1033 words, (English)

When Emilie Hayes and her husband bought a home in St. Louis in 2005, they weren't worried that it was in a 100-year floodplain. She took it to mean the property would get flooded once a century.

[DEVELOPING STORM; Build, flood, rebuild: flood insurance's expensive cycle](#)

Houston Chronicle

19. , 10 December 2017, 4998 words, (English)

See interactive graphics and catch up on the series at houstonchronicle.com/developingstorm The National Flood Insurance Program is \$20 billion in debt and encourages building in vulnerable areas. Efforts to fix it have been stymied by ...

[A House's Flood History Can Be Hard To Find](#)

NPR: Weekend Edition - Sunday

20. , 19 November 2017, 783 words, (English)

LULU GARCIA-NAVARRO: If you're looking to buy a home in Houston after Hurricane Harvey, one question probably jumps to mind first. Was this house flooded? After it's been rebuilt, it can be pretty hard to know if a property suffered water ...

[Flood caution was in the fine print](#)

21. The Dallas Morning News

, 24 September 2017, 1725 words, (English)

HOUSTON - They sat tucked away in a Fort Bend county clerk's file for the past two decades: 25 words on a public document that could have spared thousands of homeowners from losing everything. If only the homeowners had seen them. In the ...

[Caution about flood was in the fine print](#)

The Dallas Morning News

, 24 September 2017, 1726 words, (English)

22.

HOUSTON - They sat tucked away in a Fort Bend county clerk's file for the past two decades: 25 words on a public document that could have spared thousands of homeowners from losing everything. If only the homeowners had seen them. In the ...

[Flood caution was in the fine print](#)

The Dallas Morning News

, 24 September 2017, 1725 words, (English)

23.

HOUSTON - They sat tucked away in a Fort Bend county clerk's file for the past two decades: 25 words on a public document that could have spared thousands of homeowners from losing everything. If only the homeowners had seen them. In the ...