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Realtors claim floodway may hurt property values

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SKAGIT COUNTY – The floodway designation here should definitely affect property values, according to two local attorneys and two realtors.

Despite this fact, sales are taking place without the buyer's, and often without the seller's knowledge that the property is in the floodway.

One such sale was used as a "comparable value" by the assessor's office when determining current values of Hamilton area property.

Hamilton city council requested in May that all property in Hamilton be reevaluated because they believed severe building restrictions that accompany the floodway designation lowered property values. Although Hamilton has been designated as floodway since 1972, council members learned of the floodway designation in May.

Skagit County assessor Eldon Christoffer said state codes allow only individual property owners to make appeal to the Skagit County Board of Equalization. Christoffer has argued that although the assessor's office was not away of the floodway designation, Hamilton property valuations are correct because they are based on actual sales in the area.

About ten Hamilton property owners are appealing their property valuations, and the Board of Equalization is tabling all

appears based on the floodway designation until they receive complete information.

Howard Bryson, crew chief for the Skagit County assessor and a spokesman at Board of Equalization hearings for appeals of property valuations for the purpose of taxation, said the Aker property in Hamilton is one recent sale being used as evidence to justify new assessed valuations in that area.

In a recent interview, Perry and Debbie Aker said they were not informed of the floodway designation when they bought their home. Strom Realty handled the sale.

The Akers also stated that they had earnest money on a mobile home last year, but did not follow through with the purchase when they learned the mobile home was in the floodway.

"This was not known to anybody," commented Jack Strom of Strom Realty. "You (the Skagit Valley Herald) were the first one to know in this whole county as far as I can tell."

Strom said a "scarcity factor" exists for homes under \$45,000 and so the Aker property value might not be affected by the floodway designation.

"But don't put me on the side of that assessor. He over-assesses all the property in the valley," said Strom.

George Campeau, a realtor with Bi-Century Homes, said that realtors are

obligated to inform a prospective seller of the floodway designation.

“Sometimes we don’t know for a fact because the Corps of Engineers is changing their areas all the time. But a floodway designation has a bearing on the value of a home, and if we know, we’d be obligated to tell. Of course if you don’t know you’re not obligated to dig it up. If the seller knows, that’s something he should let us know about,” Campeau said.

“But it’s really hard for a realtor to get explicit information on the floodway. Everybody has a hard time,” he said.

Bill Nielson, a Mount Vernon attorney, said it’s a “real good question” whether a sale would be valid if neither the buyer or the seller knew of the floodway designation.

Nielson, a former chief civil deputy for Skagit County who dealt with changes in housing ordinances and with the effect of the floodway designation on zoning.

“I guess a buyer could back out if not too long a time has gone by since the purchase. I’m sure the floodway designation would have some effect on property value. But whether or not it would relieve the buyer of the obligation is hard to say,” Nielson commented.

Gary Jones, another Mount Vernon attorney, called the floodway designation “a very significant incident of ownership”.

“The buyer would want to know, and it’s the seller’s duty to disclose it. But the liability on it is a fuzzy area...appeals (to the Board of Equalization) might have some merit. Property in the floodway is less valuable because of the restrictions on building.”

Bryson said the assessor’s office “has to talk values as of Jan. 1, 1979.” If sales show a decrease in value as of Jan. 1, 1980 then the assessor’s valuations will change accordingly, he added.

“But why are they coming to me” Why don’t they go to the people who sold their property to them?” he asked.

Paul Shelver, Skagit County zoning administrator, said it is the responsibility of the buyer to find out beforehand if the property being sold is in the floodway.

“Anybody who comes into the county planning department gets an answer. You can’t force people to ask questions. What I have of floodway maps is public information,” he said.

Shelver said no public hearing was necessary before the designation went into effect because the county is enforcing federal regulations and he said no press releases were issued on the floodway designation because “many things that occur in government come out in steps. And many things that would be noteworthy wouldn’t be written right by the newspapers.”

The floodway takes in a large amount of land area in Skagit County but a description is not simple, since the floodway is “dependent on the terrain and topography at any given point” along the Skagit River, according to Shelver. The more restricted the area is on each side of the river, the smaller the floodway. But where the valley is wide and flat, the floodway is much wider.

Cape Horn and Hamilton are the two major residential areas in the floodway, said Shelver, but there are residences in other areas.

The county, through court action, has had to become more restrictive in enforcing floodway regulations since January of 1976, said Shelver.

“If anything, we’re not being as restrictive as we should be,” he said.

Skagit County is under an “emergency” program, and will be until all the Army Corps of Engineers’ studies are finalized in 1983. Existing ordinances will

have to be brought up to federal standards at that time, he added.

Building permits have not been issued in the floodway since 1976, he said.

Although existing structures can be maintained and improved up to 50 percent of their market value, no new buildings can go up unless the county or the city issues a variance saying that the building is “in the public interest and the interest of the town (or county).”

The variance could be issued only if the building replaces a structure that has been destroyed, and if the replacement is smaller than the original structure, he said.

In Hamilton, variances would be issued by the city, but the county would have to back that up with a building permit.

If the Federal Insurance Agency determined that the variance was granted without being in the town’s public interest, then the entire town would lose its flood protection insurance, Shelver said.