



Texas Low Income Housing
Information Service

508 Powell St
Austin, TX 78703-5122
T 512-477-8910
F 512-469-9802
Email john@texashousing.org
URL www.texashousing.org

**Testimony of John Henneberger, co-director
before the Texas Senate Committee on International Relations
and Trade on the committee interim charge:**

"Review state and local policies relating to development and growth in rural and unincorporated regions of the state. Work with housing advocates, county organizations and appropriate officials to assess the proliferation of substandard housing in rural and unincorporated areas."

June 18, 2008

One behalf of the Texas Low Income Housing Information Service¹ I want to thank you for inviting me to testify on this interim charge.

The problem of substandard housing in rural Texas has been with us for a long time. The absence of building codes and land use regulations have allowed the problem of substandard housing in rural areas to become endemic across many Texas counties.

Rural substandard housing and blight receives far less attention than these conditions do in urban areas. Low rural population densities have the effect of masking this type of blighted housing. It usually comes to public attention in one of two ways: when tragedy strikes a family in a derelict mobile home in the form of fire or natural disaster; or when developers create subdivisions lacking proper infrastructure and amenities that creates significant densities that raise the local profile of substandard housing.

Substandard housing in rural and unincorporated areas is a direct result of poverty. According to the Bureau of the Census more than one in every four children living in rural Texas today lives below the poverty level. There are about 700,000 rural Texans living below the poverty level overall. If you are poor you generally cannot afford to maintain the quality of the housing you have or afford decent housing in the private market.

Some would argue that the lack of land-use controls and building standards in rural areas allows these areas to function as a pressure relief valve for poverty in urban areas. To some

¹ The mission of the Texas Low Income Housing Information Service (TxLIHIS) is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood.

TxLIHIS was founded in 1988 by public and private housing providers, low-income people and other community leaders who subscribe to the national goal of decent, affordable housing for all Americans and who believe there must be an organized, concerted effort to achieve that goal in Texas. TxLIHIS is Texas' foremost supporter of housing for the poor and for neighborhood preservation, and is one Texas' primary source of research on low-income housing.

extent this is true. Increasingly, we see a proliferation of low density, blighted residential developments in the far exurban areas of Texas major cities. When urban housing costs get too high the poor are forced into exurban areas.

The poor pay a significant price for moving out of urban areas. They are further from affordable health care and public services. The lack of public transportation increases their cost of living significantly. Taxpayers pay a price for providing the public infrastructure to accommodate this sprawling, low-density population of low income families.

Some have come to refer to these exurban and rural concentrations of low income housing as “non-border colonias.” This label is appropriate in that these areas usually lack proper infrastructure to deal with wastewater and require the residents to rely on individual wells for drinking water. They often lack publicly dedicated and maintained roadways and adequate provision to deal with surface water flooding. Many of these communities are in fact themselves located within floodplains which puts the residents at risk of losing their homes.

A very large portion of the housing units in these areas are trailers or “manufactured housing.” Within low income, non-border colonias often times these housing units are very old, have been resold several times and contain significant code violations that place the occupants at risk of health problems due to inadequate water and sewer, and pose a safety risk of electrocution or death in a house fire. Further more these trailers are often not properly “tied down” (anchored) making them susceptible to damage in high winds.

A review of news stories about deaths and injuries in this type of housing due to fires and storms will demonstrate just how dangerous it is to live in, especially for children and the elderly.

Texas law prevents licensed manufactured home sellers from reselling old, substandard mobile homes, but no law exists that prohibits individuals from selling to one another. This is a significant loophole in the law.

Mobile homes are a major portion of the rural housing inventory in Texas. Almost one in every five homes in rural Texas is a manufactured housing unit.

But it is not mobile homes alone that comprise all rural substandard housing. Conventionally built homes often also fall into this category. In many cases these are older homes that have deteriorated over time. Newly constructed housing is at risk as well. We have grave concerns regarding the effectiveness of recent administrative actions to compel rural home builders to build to minimum standards.

Under rules adopted by the Texas Residential Construction Commission a home built outside of the jurisdiction of the municipality should comply with the state building code. In order to

ensure this a home is required to pass three inspections. We are concerned about the quality of inspections mandated by the commission. Specifically, the commission allows a builder to hire a third-party inspector. First of all, we have a concern about the objectivity of any inspector who is hired by the builder. Secondly, the standards that have been adopted for inspectors are woefully inadequate. For example, a licensed architect is an eligible inspector. The average architect is hardly in a position to sign off on the engineering characteristics of a foundation. Yet that is precisely the situation they are being placed in under the law.

It would be far more preferable to allow for inspections to be carried out by professional building inspectors employed by county governments.

Some in the building industry have argued that strict enforcement of minimum housing standards in rural areas is undesirable because it will drive up the cost of housing, making it impossible for lower income families to be able to afford a home. Yet minimum building standards are just that. They set minimum levels of state standards to ensure the habitability of a residential structure. Minimum standards are not unnecessary frills. As a direct consequence of living in substandard housing people can and sometimes do die. State action to impose and adequately enforce minimum habitability standards should not end at the city limits.

As advocates for expanding the affordability of housing to all low-income Texans we do not make this statement lightly. We recognize that there is a cost associated with building to a certain minimum quality and safety level. But this is a cost that must be paid.

Rural housing needs are poorly understood and poorly addressed by existing government affordable housing programs. Rural specific federal housing programs, administered by the United States Department of Agriculture's Rural Housing Service, have sustained enormous cuts over last 20 years to the point where the programs are producing only a handful of new housing units in Texas each year.

These cuts have made maintaining Texas' existing housing stock of rural rental housing in decent condition almost impossible. Landlords have increasingly turned to the state housing agency for assistance in rehabilitating and modernizing 30 year old plus apartment developments originally funded by the Rural Housing Service. But Texas state housing programs are massively oversubscribed, meaning that there is not enough money to meet anything but a small share of the rural housing maintenance needs.

Cuts in single-family construction subsidies at the federal level have virtually shut down the production of government subsidized owner occupied single-family housing across rural Texas.

There is no painless answer to this problem. We strongly urge the Texas Legislature to increase state funding for the Texas Housing Trust Fund. This fund has been used to leverage private and federal dollars to fund rural rental housing. It is been especially effective in rural areas in establishing self-help, owner-builder housing programs under the highly successful Texas Bootstrap loan program.

Faced with massive needs along with a rapidly decaying infrastructure of home builders and developers who work in rural Texas, the Texas Department of Housing and Community Affairs has devoted a majority of the HOME federal block grant funds the state receives for rural housing to rehabilitating and maintaining the homes of rural elderly Texans. Unfortunately, the Texas Office of Rural Community Affairs has largely directed community development block Grant funds away from rural housing needs where previously they had been used to great effect.

Given the serious problems facing housing in rural Texas we have undertaken a joint project with the Association of Rural Communities in Texas, the Texas Department of Housing and Community Affairs and Texas Tech University to undertake an intensive market study of three Panhandle counties (Deaf Smith, Castro and Palmer) in order to understand rural and small town housing needs and to develop programmatic solutions to meet those needs. The market studies have begun and once completed a Texas Rural Housing Summit will be convened in Hereford in the late summer or early fall. The summit bring together local community leaders, national rural housing experts, private developers, nonprofit developers, government agencies, private financial institutions, and elected officials to make specific policy recommendations.

We hope to be able to share the recommendations from the Texas Rural Housing Summit with this committee so that you may consider the results in developing your interim report.

Recommendations

On the behalf of the Texas Low Income Housing Information Service I offer the following recommendations to the committee.

1. Extend to rural counties the power to adopt building codes and to enforce those codes with local county inspectors in order to prevent the proliferation of substandard housing.
2. Expand the Economically Distressed Areas Program (EDAP) and provide adequate funding for the program to allow county governments to both prevent the proliferation of substandard rural housing developments and to access funds to extend public services to substandard rural developments.

3. Prohibit the resale and relocation of substandard manufactured housing units intended to be used for residential purposes.
4. Allow rural counties to exercise land-use planning controls to prohibit incompatible land uses and inappropriate densities within their jurisdictions.
5. Provide \$50 million per year in funding for the Texas Housing Trust Fund to increase the supply of housing in both urban and rural Texas.

I have attached two newspaper articles which describe the problem of “non-border colonias” in Texas and one that deals with the need to straighten existing building codes and enforcement of those codes..

Thank you again for the opportunity to provide this testimony.

Newspaper articles

washingtonpost.com

Shantytowns Migrate Far North of the Border in Texas Weak County Laws Tied to the Spread of Squalid Developments

By Sylvia Moreno
Washington Post Staff Writer
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CORPUS CHRISTI, Tex. -- Far from the Mexican border and just outside one of Texas's major tourist destinations, with its popular nearby beach and bustling port, a string of shantytowns thrives.

Hidden behind acres of tall grain sorghum live some of the area's poorest residents. They bought the only piece of the American dream they could afford: a patch of land with no running water and no sewage treatment or wastewater service. Their homes are modest, made of wood or vinyl siding. Some live in shacks made of scrap metal or in dilapidated trailers. The spring rains bring massive flooding to these low-lying areas and with that, contamination, disease and disruption of life.

Known as colonias, these developments have existed for years along the border with Mexico. Now they have migrated north, attracting not only new immigrants but also second- and third-generation Mexican Americans, and whites and blacks unable to find affordable housing elsewhere.

Dozens of the unregulated, rural subdivisions have sprung up deep into Texas, near Corpus Christi and outside Austin, Houston, Beaumont, San Antonio and as far north as Dallas and Fort Worth. Officials say unscrupulous developers take advantage of weak county laws to subdivide land and sell the plots with inadequate, if any, improvements. Over the past decade, Texas lawmakers have passed tough regulations on colonias near the border. With the squalid developments spreading, lawmakers are turning their attention to the rest of the state.

"This is just like Guatemala or Africa," said Lionel Lopez, a retired Corpus Christi firefighter who organized the South Texas Colonia Initiative to bring attention to what he counts as 88 such developments in Nueces County. "You see kids with all kinds of sores on their little legs, and the dogs -- they don't even bark, and they have mange."

The cheap land -- lots can cost \$30,000 to \$40,000, with or without a structure -- look ideal to residents trying to escape a tough inner-city neighborhood or who cannot afford starter homes at \$80,000 or \$90,000 within the city limits. "Through throwing up a substandard subdivision, you can offer a segment of our society their dream," said Donald Lee, executive director of the Texas Conference of Urban Counties. "Unfortunately, what you're not telling them, and they oftentimes don't realize, is that they're buying into a nightmare."

The residents of the colonia known as Tierra Grande, eight miles southwest of Corpus Christi, have survived their latest nightmare: two months of heavy rains that caused massive flooding. The development sits in a flood plain, atop a maze of underground ethylene, methanol and natural gas pipelines that feed into Corpus Christi's nearby refineries. The development has no drainage system, and the homes have only septic tanks to handle solid waste. So bad was the recent flooding that septic tanks overflowed, and human waste saturated the floodwaters inside and outside the ramshackle houses. Snakes slithered into homes, and huge water beetles that look like leeches crawled out of the flooded vegetation and into residents' damp mattresses. Parents carried their children on flooded roads out to a county highway to catch the school bus because the vehicle could not enter the community. Mail was not delivered for a month.

Furniture, cars and trucks were ruined. Wells, which many residents depend on for cooking, washing and bathing, were tested and found to have three times the amount of acceptable E. coli bacteria for human contact and an unacceptable level of dissolved solids for human consumption, said Rick Hay, a research associate with the Center for Water Supply Studies at Texas A&M University at Corpus Christi. The roads were rutted, the mosquitoes flourished, and some of the ditches along the roads held opaque, larvae-laden water a month after the last rains. A few years ago, the several hundred residents of Tierra Grande experienced the same type of flooding.

"If I had money to move to Corpus Christi, I'd be living over there," said Zulema Tovar, 40, as she sat outside her corrugated tin house, holding her 5-month-old daughter, Yesenia. Tovar has lived in Tierra Grande six years. Her two daughters contracted bronchitis during the worst of the flooding, and her 24-year-old nephew was hospitalized after a leg cut became infected from the contaminated water around their home. Other relatives suffered diarrhea and fever. Several of Tovar's toenails softened and fell off. She believes that happened because of the contaminated floodwater she had to walk through for days.

"Nobody ever told us anything about anything, about the flooding," Tovar said. "I guess people would say [about us], 'They should have known better.' But us being poor Mexicans, too, we're trying to do the best we can."

Texas legislators who represent the areas north of the border where the colonias are growing say they want to stop development of the subdivisions and provide state aid to residents.

"You've got people living in these Third-World conditions. . . . It is a serious problem in urban counties," said state Rep. Dora Olivo, a Democrat whose district just outside Houston, which includes four colonias, overlaps with the congressional district represented by House Majority Leader Tom DeLay (R-Tex.). "People move out there because it's too expensive to live in the city, into areas that aren't regulated. . . . Unscrupulous developers come in and do the wrong thing. But how do we prevent proliferation of colonias? It's an expensive proposition."

Today, an estimated 1 million Texans live in these unregulated subdivisions that have sprung up far from the border and lack adequate water or wastewater service, according to the Texas Water Development Board. The cost for providing such services would be huge.

"The total needs are \$1.82 billion to bring water . . . and there's \$1.95 billion in wastewater needs," said Jonathan Steinberg, the board's deputy counsel. "We've got a problem here."

Since the late 1980s, the Texas Legislature and various state agencies have focused on border colonias, passing strict state laws at the end of the last decade to prohibit further development. Border counties and counties 50 miles inland from the border were given the power to require developers to provide water and wastewater services in new residential subdivisions. In 2001 Texas voters passed a \$175 million bond issue to improve existing colonia conditions by funding water, sewage and drainage systems. Millions in federal funds also were earmarked to help.

More recently, the legislature began focusing on the "urban colonias" by targeting certain urban counties and their neighboring counties and giving them limited power to regulate rural subdivisions. However, counties still have no zoning authority.

These urban counties now "have a vague authority to ensure that moral, orderly and healthful development -- that's the key phrase -- occurs," said Jeff Barton, a land-use and planning consultant who is a former commissioner in Hays County, just south of Austin. Barton was a commissioner in 1998 when Hays County had to approve a special budget appropriation to provide emergency hepatitis shots to hundreds of residents in a substandard rural subdivision called Green Pastures. The residents' septic tanks had failed. During heavy rains, the houses and dirt roads were flooded with human waste that children and adults waded through daily -- 22 miles south of the state capitol. President Bush, who was governor of Texas at the time, never visited a colonia but supported and signed a dozen bills to help them.

Barton said counties, a weak form of government as prescribed in the Texas Constitution of 1870, are not accustomed to exercising authority over development and land use.

"They've been very skeptical and very cautious and maybe even overly cautious about moving into this territory," he said. "There is some room for counties to be aggressive and more proactive in addressing growth issues. . . . We are a different state than we were 150 years ago, and it's time that we recognize that."

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No Man's Land Substandard Conditions Are a Way of Life for Northridge Acres

By Cheryl Smith

Turning off FM 1325 onto tattered Northridge Acres Drive is like rolling into the Twilight Zone. The foul scent of sewage permeating Kenneth Snyder's house and the green stagnant water in the drainage ditch parallel to his yard are dramatically out of sync with the choice real estate surrounding the displaced subdivision he calls home. A sign for a 328-acre commercial multi-use development, La Frontera, coming to the former farmland less than a block from his home, and the new apartments on the other side of the chainlink fence a couple of blocks from his corner -- home to many of the techies of nearby Dell Computer Corp. and other high-dollar companies -- exemplify the growing gap between Northridge Acres and its neighbors. These disparities, exacerbated by the fact that Northridge Acres is currently drawing its water from a nearby fire hydrant, set the scene for a strained relationship between the subdivision and area government officials. The subdivision's 300-plus residents cope in different ways. Kenneth Snyder, a bicycle repairman who vends soft drinks out of a Coke machine next to his front door, opts for making daily phone calls to the offices of elected officials in Austin, Round Rock, Travis County, Williamson County, the Texas Legislature and several state agencies.

"What burns me is we're so close to everything but we gotta live like this," says the 50-year-old Snyder, who along with his wife, Laura, has lived in Northridge Acres since 1985. "It's like I told Gov. Bush's [office], 'You're down there worrying about Mexico and stuff, and here we are with a colonia in your back yard.'"

Standing in his front yard, Snyder squints, then attempts to straighten the crooked, wide-framed glasses high on his nose. "Nobody wants to hear about colonias here in Travis and Williamson counties, but they've got 'em," says Snyder, who is fond of likening his community to the more than 1,400 substandard communities on the Texas-Mexico border.

Developed in 1961, the Northridge Acres subdivision straddles the Travis and Williamson County lines, about a half-mile west of I-35, off FM 1325, also known as Burnet Road. Back then, Austin boasted a population of 186,545, and its city limits stopped several miles south of the rural community. The city of Round Rock's population was less than 2,000, and its city limit stood five miles to the southwest. In the early days, Northridge Acres' only neighbors were cows, a drag-racing track -- silenced years ago -- and a 100-year-old house where the Texas Chainsaw Massacre was filmed. The old house is now a restaurant on Lake LBJ.

Early on, the subdivision was a draw for those wanting to escape the hubbub of city life. "I didn't like the idea of living in the city. It [Northridge Acres] was a more quiet, serene environment," says Fidel Acevedo, who bought his grassy, one-acre lot in the back end of the subdivision in 1971. "Most everybody owned

at least one acre of land. All the neighbors knew everybody. You always knew whose kids were out in the streets."

Time and rapid growth have changed those days for good. Austin's city limits now stop only two miles short of Northridge Acres, while Round Rock, itself a burgeoning community, literally bumps up against the subdivision and has a population of almost 53,500. Neither city, nor their respective counties, has ever officially supplied the subdivision with sewer or water services. The city of Austin, whose extra territorial jurisdiction (ETJ) includes Northridge Acres, recently finished extending a sewer line in the community's direction for the southernmost portion of portion of La Frontera, which also falls within the city's jurisdiction. With retail stores, restaurants, a multiscreen theatre, a hotel, an apartment complex, and office buildings, the new mixed-use community will reimburse Austin for the multimillion dollar sewer line extension in the form of tax-generated revenue. It wouldn't have been cost efficient to provide the line solely for Northridge Acres, says Mike Erdmann, wholesale services manager for Austin's water and wastewater utility.

Widespread Phenomenon

All things considered, Northridge Acres isn't as bad off as many of the border's more downtrodden colonias. Nobody uses an outhouse, the roads are paved, and water flows directly into homes. But, Northridge Acres' 640-foot-deep well -- its only permanent water source -- went dry last summer, the downhill end of the subdivision is plagued by drainage problems, and many residents' septic tanks leak into their yards and overflow easily, making flushing during a rainstorm a potential health hazard.

"When I heard about [Northridge Acres], it was clear to me that it was a colonia. The colonias are much more widespread than has been understood," says Peter Ward, a professor in the University of Texas' Sociology Department and LBJ School of Public Affairs. Ward is also the author of *Colonias and Public Policy in Texas and Mexico: Urbanization by Stealth*. As in Northridge Acres' case, Texas' colonias generally fall into what Ward calls "an administrative no man's land," meaning they are outside the nearest city's limits or in its ETJ. Most of Texas' unincorporated areas go largely unregulated. Counties don't have the authority to require developers to provide running water under state law. They can only force developers to state whether or not water will be made available to a subdivision. And until last year's legislative session, developers who said they didn't intend to pave roads in unincorporated neighborhoods didn't even have to file building plans with counties.

Texas' constitution is extremely pro-landowner because of the state's open-frontier, pioneer roots. As Paul Sudd of the Texas Association of Counties puts it, "Texas has this image, for better or worse, as a haven for property rights." By contrast, the constitutions of several other states, such as California, make no distinction between city and county land use authority. Explains DeAnn Baker, of the California State Association of Counties, via e-mail: "We both share police powers and zoning authority equally -- our authority is mutually exclusive."

In Mexico, Professor Ward notes, the powers of cities and municipalities -- the Mexican equivalent of counties, are lumped together, leaving less room for "jurisdictional ambiguity." In his book on colonias, Ward writes, "There is an urgent need to give greater consideration to the way in which we, in Texas,

approach the colonias phenomenon, and to think more aggressively and imaginatively about how we can intervene more effectively."

Border Improvements

In the late Eighties and early Nineties, images of border residents -- the majority of them U.S. citizens -- living in shacks and cottages without electricity or plumbing caught the national media's attention. The publicity forced local, state and federal officials to address a situation that had been tolerated for decades. As a result, Texas has spent hundreds of millions of dollars over the past decade trying to bring the border's colonias up to par with development standards first established in the 1989 Legislature.

Lawmakers tightened the standards, known as the Model Subdivision Rules, in 1995, requiring water and sewer hookups, electrical connections and subdivision blueprints for border communities. Developers are now prohibited from selling residential lots without water and sewer hookups, roads and drainage.

Vick Hines, a legislative aide for Sen. Carlos Truan, D-Corpus Christi, says the proliferation of communities lacking decent water, sewers, and, in many cases, paved roads, hasn't been addressed sufficiently statewide. "I think it's really important to get the big picture on this stuff," says Hines, who has worked for Truan on colonia regulation legislation for more than 10 years. "Until rural counties near major metropolitan areas wake up, they aren't going to get anything solved."

The state as a whole is a breeding ground for colonias because in addition to its weak county government, it has several large metropolitan areas where people can move to the outskirts. Searching for a better quality of life and fleeing high municipal land taxes, low-income individuals are migrating from inner-city neighborhoods to low-cost subdivisions on the fringes of town.

"What we have are not substandard subdivisions, but substandard housing. Living conditions here [in colonias] are not any worse than when you put several individuals in a two-bedroom house in the middle of the city," argues Scot Campbell, a Harlingen-based developer who has been building subdivisions, some of which are considered colonias, in the Lower Rio Grande Valley for 22 years.

According to 1990 U.S. census data, Texas has the eighth-highest poverty rate in the country, with an 18% rate compared to 13% nationally. Disturbing as this statistic is alone, it is much more alarming when coupled with data from the Texas Department of Housing and Community Affairs' (TDHCA) year 2000 report on low-income housing. According to the report, there is a shortage of affordable housing for low- and moderate-income Texans because the majority of professional developers have been building for more lucrative markets. Central Texas is especially susceptible to substandard development the report says, because it is one of the state's fastest growing regions and because Travis, Hays, and Brazos counties are three of only six state counties in which low-income individuals spend 45% or more of their income on housing.

According to Texas Natural Resource Conservation Commission (TNRCC) statistics, the number of septic tanks installed yearly in Texas, a figure that roughly corresponds with the number of homes being built in areas without sewage systems, is on the rise. The number of applications for on-site sewer

system permits filed during 1999 -- 48,940 -- rose from 43,129 in 1997. The statewide application process is based on the honor system, so the septic tank figures are likely lower than the actual amount, notes Annette Maddern, program administrator for TNRCC's on-site sewage facilities program.

An obstacle keeping substandard communities in most non-border counties from making improvements is the difficulty in receiving funding. Counties adjacent to the border or with a per capita income 25% lower than the state average qualify for the state's Economically Distressed Areas Plan, which was created in 1989 to curb colonia development. Qualifying counties that enforce the model subdivision rules receive state and federal aid for projects. But with a per capita income of \$27,610 in Travis County and one of just over \$23,450 in Williamson, local substandard communities like Northridge Acres have very limited funding options for potential improvements.

Northridge Acres was awarded a grant of about \$300,000 from TDHCA to install a sewer system in 1997. But, progress has been slow to none, partly because residents are divided over whether their Small Towns Environment Program (STEP) grant, which requires them to supply a portion of the project's labor and construction resources, is even appropriate for their community, which has a significant elderly population.

Also, some Northridge Acres residents are bitter about the fact that neither Round Rock nor Austin wants them, and openly vocalize their discontent, weakening their community's relationship with cardholders simultaneously. "It's been rocky all the way through," says TNRCC utility specialist Carol Limaye, when asked about the so-far-unsuccessful sewer project.

"It's been stall, stall, stall, all the way through. Nobody wants to do anything," says Snyder, who airs his gripes weekly on public access television. "They figure if they give us enough hell that we'll just give up, leave and they'll take over the land," he says of Austin officials in this case. "They want to put all the fancy houses in and everything."

Because Northridge Acres is in Austin's ETJ, the city has the authority to annex the subdivision at any time. In fact, Austin has taken the westernmost portion of Northridge Acres into its city limits before. The city annexed several strips of land in its ETJ in 1985 as part of an effort to control area growth, says Erdmann, of the city's water and wastewater utility. Northridge Acres, along with some other tracts of land, was de-annexed in 1989. State law began requiring municipalities to provide extensions of water and sewer services to annexed areas in 1987, but city officials say that since the requirement wasn't retroactive, the new law had nothing to do with the de-annexation.

Austin dumped Northridge Acres because, one, the state legislature was clamping down on the city for doing large strip annexations, and two, because residents, unhappy about paying city taxes without receiving water and sewer services, petitioned to be removed from the city's limits, says Diane Quarles, Austin's former principal planner, now with the city of Santa Fe, New Mexico. The city, however, doesn't have a Northridge Acres de-annexation petition on file. "They fought bitterly to be removed," she says. "It's a case of, 'be careful what you wish for.'"

Residents of Northridge Acres then clamored for the entire subdivision to be taken into Austin's city limits in 1997, the year the city did a mass annexation, Quarles says. "It was just rearing its ugly head again. The city didn't do anything wrong," she adds.

Northridge Acres residents, who say they paid city taxes from '85 until '89 beg to differ. Snyder says the annexation stretched as east as the telephone pole at the edge of his one-acre lot. He paid about \$1,500 annually during those four years, he says. Because Northridge Acres is in Travis County and partially in Williamson County, it is difficult to trace where Snyder's tax dollars were going. Travis County Appraisal District's computer records indicate that his property has been in Williamson County since 1990. His address was consequently deleted from Travis' computerized tax records. Williamson County doesn't have any record of Snyder's taxes during the Austin annexation years.

"They just dropped us and didn't do nothing for us," says Snyder, who's been told his signature appears on the community's elusive de-annexation petition, but he contends he doesn't remember signing it. None of the former Austin taxpayers got their money back because cities aren't required to return tax money to residents of de-annexed areas. "There is no process or method for returning taxes after you've collected them. There wasn't any way to send the money back to the folks," says Erdmann, adding that the Northridge Acres tract was not the only community the city de-annexed in 1989.

A Tangled Web of Water

Until another water source comes along, Northridge Acres' residents will continue getting their water from a fire hydrant in Round Rock's Corridor Industrial Park. Almost all of the subdivision's houses are tied into the hydrant, located near the green dumpsters and semi-trucks of Michael Angelo's, a frozen Italian food company, which occupies a space in the industrial/warehouse facility. The community's well was sealed last summer after it went dry. Some residents say that when it had water, it was contaminated because of the leaking septic tanks.

The well's water pump was black and slimy when it was removed to fill the hole up with cement, Snyder says. However, water quality tests conducted by members of the Northridge Acres Water Supply Corporation, as well as the Texas Department of Health, have never found evidence of fecal contamination.

As it happens, Round Rock's water and sewer lines are closer to Northridge Acres than Austin's lines. Despite this, Austin -- which pays Round Rock more than \$1,000 a month for the fire hydrant water, then bills Northridge Acres the same amount -- had to tunnel under FM 1325 to extend its water lines in the subdivision's direction.

"They're in Austin's ETJ. That's how the law is set up," says Jim Nuse, Round Rock's director of public works. "Their [Northridge Acres'] sewer and water needs to come from Austin."

The 16-inch extension, which has been in place since February and cost about \$14,000, is still dry because Northridge Acres' Water Supply Corp. is responsible for connecting the new line to the subdivision about 200 feet away, says the city of Austin's Erdmann. "We're all buttoned up and ready to go," he says. "They just need to tie in."

It's not that easy, argues Nettie Brown, vice president of the Northridge Acres Water Supply Corp, and a longtime resident of the community. The water supply corporation hasn't been able to take care of its connection facilities because the Texas Department of Transportation, which owns the land on either side of FM 1325 -- where the potential sites for the hookup are located -- won't grant the subdivision approval to use their property, she says.

The highway department will approve use of its land for almost any public utility if the community wanting to install the lines hires a professional engineer to draw up plans, and if the professional builder pays the installation cost up front to ensure the job gets completed, Erdmann says. The water supply corporation is paying an engineer to install a hookup, but he hasn't done anything yet, Brown says. "I just think they want to stop the growth in this subdivision," she says.

Mark Petrussek, TxDOT's utility coordinator for the Austin area, says Northridge Acres can install its water line on TxDOT land. It's just a matter of the subdivision and the city of Austin deciding who's going to pay for the hookup, and then applying for the permit. "It's just a matter of them deciding what's going to be done," he says. "[The water supply corporation] just can't seem to afford it. They want the city of Austin to do it for them."

Another obstacle for the corporation has been finding the funds to pay for the estimated \$20,000 connection fee, Brown says. That amount was reduced to \$15,000 about a month ago, when Travis County agreed to cover 25% of the cost on the condition that the corporation submit to a financial audit, says Erdmann, who represented Austin at the Commissioners Court meeting where the decision was made. Travis County will ask Williamson County to match the contribution, he adds.

Round Rock had intended to disconnect Northridge Acres from the hydrant June 1, a more than fair deadline since the water arrangement was temporary and Austin's line extension is complete, Round Rock's Nuse says. Now, Round Rock is extending the water cutoff deadline on a day-to-day basis. "Our goal is not to put people out of water. Our goal is to have the water supply corporation act responsibly," he says.

Life at Northridge

With a long, manicured front lawn hosting two tropical looking Spanish Dagger trees, a brick-red picket fence, his own private well in the back yard and a four-bedroom fieldstone exterior home, Fidel Acevedo, who spent 28 years working in a handful of departments at IBM, is one of the community's more upscale residents. He pulls a white lace curtain in his den away from a set of French doors leading to a narrow sunroom facing his back yard. He points to a cluster of new multi-story houses on the horizon of his property line. Then he stares and frowns at the rusty trailer surrounded by a pile of clutter in his next door neighbor's back yard. "[Northridge Acres] has the problems of any colonia that you'll find, but then again, there's a lack of responsibility on the part of the homeowners," says Acevedo, the Democratic chairman of Precinct 225, which includes Northridge Acres, part of the Wells Branch community -- a little of Round Rock and a little of Pflugerville.

In a white V-neck T-shirt, dark Wrangler jeans and open-toed leather sandals, he doesn't look to be politically connected. But his incessantly ringing cordless phone and atypical sympathy toward local

politicians gives him away. "We cannot live that way. I think [residents] need to realize that they cannot have this trailer-trash mentality. They can't just expect the county to keep giving them everything," he says.

Meanwhile, the La Frontera development is sprouting up. Its eight-story Marriott is currently under construction, the stores and restaurants should be ready by late summer or early fall, says Trey Salinas, who represents 35/435 Investors, L.P., the project's development partnership made up of Don Martin, Bill Smalling, and Bill Boecker.

Acevedo, who resides on the east side of La Frontera, only yards away from Round Rock's industrial park, a marker for the city's ETJ line, never had to deal with Austin's annexation whims. He says his property taxes, which totaled about \$570 in 1999, haven't risen much since the Seventies, but he fears they'll soar once La Frontera is complete. Northridge Acres' residents, whose children go to Round Rock schools, already have to contend with one of the highest district tax rates in the state.

La Frontera's developers spent about \$30 million on their 328 acres of land across the road from Northridge Acres, Salinas says, adding that the developers probably wouldn't consider purchasing the land Northridge Acres occupies since the property is in Austin's ETJ, he says.

"That makes a big difference in terms of what you can do," says Salinas, referring to Austin's notoriously stringent development rules. "In all honesty, we'd prefer to stick to Round Rock." Salinas was an aide to former Austin mayor Bruce Todd.

Northridge Acres residents wouldn't mind being a part of Round Rock and have made requests for the city to annex them. Not surprisingly, residents weren't pleased when Round Rock decided to annex La Frontera, whose Marriott alone will generate about \$1.5 million annually in taxes. "It is not fair to bring them into the city limits and not include Northridge. After all, we have been asking for help from Round Rock for years," wrote Snyder in a protest letter to the city.

The tall chainlink fence separating the industrial park and the condominiums from the subdivision screams the city's answer.

"The council doesn't believe they're in the best interest of the city as a whole," Nuse says. "We're not interested." Travis County Judge Sam Biscoe, who was the driving force behind the county's decision to help Northridge Acres with its water hookup fees and who has worked to get grant funding for projects in other local substandard communities, explains why. "The problem with the cities is they're kind of revenue conscious. The residents of wealthy communities are annexed a whole lot faster than the poor ones," he says.

Janie Rangel, co-chair of People Organized in Defense of Earth and its Resources (PODER), an environmental and social justice group, agrees. "They're building and developing everywhere. Why not help your own people out before you bring in someone else?" she says. "I for one would like to see the cities spend more time and money on them. The money is out there. It's just who's holding it and for what?"

Round Rock found a way to waive about \$100,000 in building fees for its new Marriott, including the charge for tying into the city's water and wastewater system. "You have to pay for the right to tap into that system," Salinas notes. Mark Borskey, chief of staff for state Rep. Mike Krusee, R-Williamson County, sums up the predicament of countless Texas colonias when referring to Northridge Acres. "Everybody has a responsibility to somebody else, and Northridge Acres has been caught right in the middle. It's caught in this no man's land and it shouldn't have been."

One suggestion Ward, the UT professor, makes at the end of his book for dealing with substandard development in Texas is to hold cities more accountable for colonia integration. He argues that Texas' traditional response to substandard developments -- to shun them, or deny that they even exist -- has been counterproductive, and that Texas should look to Mexico, a poor country with hard-tested public policies pertaining to substandard development. "The tradition has basically been learned from Mexican housing projects, that's why there's so many on the border," he explains.

Even if no municipality wants Northridge Acres, resident Snyder for one has his fingers crossed that someone else will. "It's hard to replace what you've got. I ain't going to give it away. It's going to take \$200,000. But if they'll pay my price, I'll sell it." end story

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Storms fail to spark much change in building codes Disaster officials incredulous that state hasn't upgraded building regulations since hurricane

By Eric Berger
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After calamitous hurricane seasons in 2004 and 2005 destroyed nearly half a million homes across the South, most Gulf states bolstered their building codes to reduce the risk of future storm damage.

Florida did. Mississippi did. So did Louisiana, adopting for the first time a statewide building code. But Texas? Not so much.

Since Hurricane Rita, the state's lack of attention toward its building codes, often characterized as a muddy patchwork of inconsistent regulations, has left hurricane experts stunned.

Houston meteorologist Bill Read, new chief of the National Hurricane Center, called out local and state policymakers earlier this year for doing nothing. Former hurricane center director Max Mayfield expressed similar concern, saying better building is the country's only safeguard against rapid coastal development.

And disaster safety officials are equally incredulous that Texas, with nearly three years passed since Rita, and a new hurricane season beginning today, has done so little.

"Texas is an aberration," said Leslie Chapman-Henderson, chief executive of the Federal Alliance for Safe Homes, a nonprofit organization. "It's eerily quiet in the state. Why are they not having a conversation about codes?"

The state has quasi-mandatory codes for coastal residents, unevenly enforced codes in cities, and builder-enforced codes elsewhere. National advocates for stronger building codes say that's probably not the most forward-looking approach for a hurricane-prone state.

Texas cities, such as Houston and Galveston, have statutory authority to set and enforce building codes, and for the last decade new coastal developments have been subject to reasonably strong codes. But counties have little authority to regulate building codes, leaving unincorporated areas something of a mystery, varying from finely constructed homes to well, who really knows?

Local builders, however, argue that the current codes are more than sufficient, even excellent, in the Houston area.

"Our building codes are top notch," said Toy Wood, chief executive officer of the Greater Houston Builders Association. "There's no way for me to say that everywhere a hurricane might hit, enforcement's been great. But I can tell you that in our area enforcement is pretty strong."

Building codes are only as good as their enforcement, experts agree, but in a state like Texas, where there's no uniform code policy, enforcement is all over the map. A private analysis of the state's municipal codes bears this out.

Below national average

ISO, an information risk company that primarily serves insurers, assesses the building codes and enforcement standards in local communities. ISO then grades a community on a scale from 1, exemplary, to 10. A good rating generally lowers a region's insurance rates, a bad rating the contrary.

Statewide, Texas has an average of about 5.5 on the ISO scale, which is worse than the national average, about 4.5, and considerably worse than the country's gold standard for codes, Florida, about 3.5.

For cities within 30 miles of the Texas coast, Houston, Baytown, Pearland and Harlingen do the best, each earning a rating of 4 for residential development. Galveston earned a 5.

"We work hard to stay current with the latest national building codes," said Al Largent, a city of Houston planner.

At the other end are cities such as Beaumont, which sustained considerable damage from Rita, with an 8, Victoria with a 9, and Corpus Christi and Brownsville, which declined to participate in the program.

Corpus Christi has had staffing problems, a spokeswoman said, but eventually will participate.

"Clearly, our system could be improved," said John Smithee, chairman of the Texas House Insurance Committee, which handles building code legislation.

Building codes do matter. In 1992, the strongest hurricane to ever strike the U.S. mainland, Andrew, brought 165 mph winds to the Miami area.

While pricier homes nearby were flattened, 27 homes built to a hurricane resistant code by Habitat for Humanity sustained no structural damage. A Miami Herald headline read, "Tally: Habitat 27, Andrew 0."

Andrew awakened Florida to the importance of building codes, and the state has adopted the most rigorous building protections in the country, requiring everything from storm shutters to metal roofs in the most vulnerable areas.

This has raised building costs between 0.5 percent to 5 percent, building code advocates say. But once the codes go in, and every developer has to play at the same level, market forces quickly drive down costs.

"Better building will not only help save lives, it will ultimately help save tremendously on insurance payments," said Mayfield, who is now a TV meteorologist in the Miami area.

A consistent code may also improve traffic flow during evacuations because residents outside storm surge zones would have confidence that their home could withstand winds associated with major hurricanes and not feel the need to flee, Mayfield said.

Chapman-Henderson, the safe homes advocate, said the first step toward creating a statewide code would be to hire engineers from the state's universities to assess the existing quality of homes and building code enforcement. That would provide information to begin developing a uniform code.

"This is one of the avoidable disasters," she said. "Not doing anything is the classic definition of insanity."

Yet the idea of a statewide building code appears to have little traction in Texas. Smithee, who is not unsympathetic to overhauling the codes, says it would probably be difficult.

"There's always been opposition to change from builders groups," he said.

Such a plan probably would require counties to take on additional enforcement work in unincorporated areas.

"I think it's something we'd consider, but you always have to look at the question of cost," said Harris County Judge Ed Emmett.

There also has been some opposition because Texas is much bigger than other states — "Everyone likes to talk about Florida, Florida, Florida," Emmett said. "But Texas is not a narrow peninsula sticking out into the ocean."

Adjusting for size

A uniform building code doesn't mean it's one-size-fits-all. National building codes adjust for geography, meaning that if Texas adopts a uniform building code, it might require coastal homes to withstand 130-mph winds, while farther inland, homes may need only withstand up to 110-mph winds.

After Hurricane Alicia in 1983, still the last major hurricane to strike the greater Houston area, the state did begin considering the building code issue. But it took five years before the state had guidelines in place, and not until 1998 were there quasi-mandatory codes.

The program, managed by the Texas Department of Insurance, applies to 14 coastal counties and a sliver of southeastern-most Harris County.

To obtain insurance from the Texas Windstorm Insurance Association — the insurer of last resort for coastal areas where private insurers have left the market — homes must be built to code. Otherwise, homeowners must pay a surcharge.

Some builders and inspectors argue that a statewide building code already exists. In 2003, the Legislature created the Texas Residential Construction Commission to resolve issues between developers and home buyers before litigating.

The commission has "building standards" that spell out how a home must perform after construction.

"Compared to what the state has had during the last 20 years, this is a huge step forward," said Randy Sullivan, a code-certified home inspector.

But others say the commission offers little assurance.

After a review of the commission in 2006, then-Texas Comptroller Carole Keeton Strayhorn said, "It is clear that the Texas Residential Construction Commission functions as a builder protection agency."

The bottom line, code advocates say, is Texas should take building codes more seriously.

"When it comes to building homes, we need to talk about preventive measures," said Julie Roachman, chief executive of the Institute for Business and Home Safety, a nonprofit group dedicated to reducing property losses. "We should use things such as hurricane straps as selling points, not granite counter tops and surround sound."