

Resolution No. 2021-17

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**A RESOLUTION APPROVING A DECLARATION OF VIOLATION TO THE  
FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) WITH RESPECT TO  
PROPERTY LOCATED AT 29675 BULVERDE LANE**

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**WHEREAS**, compliance with the Comal County Flood Damage Prevention Order is required by Comal County and FEMA; and

**WHEREAS**, the Comal County Floodplain Coordinator has determined that a structure owned by Angelica Albanese located at 29675 Bulverde Lane in Comal County, Texas, legally described as 0.772 Acres out of the G. Herrera Survey 192, Abstract 206, Comal County, Texas to be in violation of Article 5, Section G(1)(b) and Article 5, Section B(2) of the Comal County Flood Damage Prevention Order, said structure in violation is identified on the attached Exhibit A; and

**WHEREAS**, the violations have not been corrected; and

**WHEREAS**, pursuant to Section 16.315(6) of the Texas Water Code, the Comal County Commissioners Court has the Authority to declare the property to be in violation of the Comal County Flood Damage Prevention Order and forward the declaration to FEMA; and

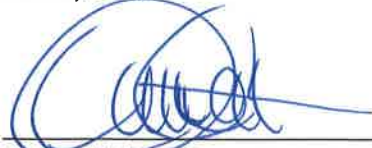
**WHEREAS**, both notice of the violations and notice of the prospective denial of insurance have been provided to the property owner; and

**WHEREAS**, based upon this declaration, FEMA has the authority under Section 1316 of the National Flood Insurance Act, as amended, to deny flood insurance coverage to structures in violation of the above described property.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF COMAL COUNTY, TEXAS**, that the Commissioners Court declares the structure on the above described property to be in violation of the Comal County Flood Damage Prevention Order, approves the "1316 Declaration" which is attached hereto and incorporated herein by reference, and authorizes forwarding the Declaration to FEMA.

**NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE COMMISSIONERS COURT OF COMAL COUNTY, TEXAS**, that upon a finding of valid declaration by FEMA, the Commissioners Court hereby directs the Comal County Clerk to record this Resolution of the attached "1316 Declaration" in the Official Public Records of Comal County, Texas.

EFFECTIVE THIS 16th DAY of September, 2021.



SHERMAN KRAUSE, COUNTY JUDGE



DONNA ECCLESTON  
COUNTY COMMISSIONER, PCT #1



SCOTT HAAG  
COUNTY COMMISSIONER, PCT. #2



KEVIN WEBB  
COUNTY COMMISSIONER, PCT #3



JEN CROWNOVER  
COUNTY COMMISSIONER, PCT. #4



ATTEST:

  
BOBBIE KOEPP, COUNTY CLERK

**The National Flood Insurance Act of 1968  
Section 1316 Declaration**

As authorized by the Section 16.315(6) of the Texas Water Code, The Comal County Commissioners Court, does hereby declare the structure listed below to be in violation of the Comal County Flood Damage Prevention Order.

Comal County hereby requests that FEMA deny the availability of flood insurance coverage to the following structure pursuant to the provisions of Section 1316 of the National Flood Insurance Act of 1968, as amended.

**1) Owner, Address and Legal Description of the Property:**

Name: Angelica Albanese  
Address: 29675 Bulverde Lane  
City: Bulverde, TX 78163

**2) Type of Structure:**

Description: Wine Bar/Lounge  
Flood Zone: AE

**3) Property is in Violation of:**

Article 5, Section G(1)(b) of the Comal County Flood Damage Prevention Order, which requires an approved floodplain development permit prior to construction in a SFHA. Also, Article 5, Section B(2) which requires non-residential structures to have the lowest floor elevated to or above the BFE or provide certification of dry-floodproofing.

**4) Property is in Violation Because:**

The property owner did allow or permit the erection, construction, or alteration of any improvement or allow or permit the placement of any material in the Area of Special Flood Hazard without an approved Floodplain Development Permit. Specifically, the lowest floor of the above mentioned lounge is located below the base flood elevation.

**5) Authority:**

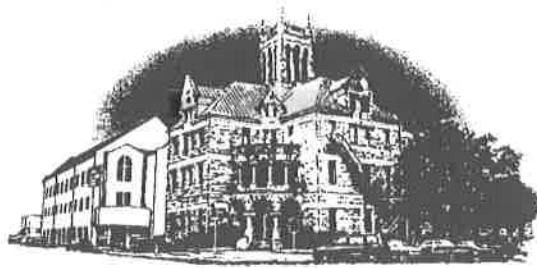
Section 16.3145 of the Texas Water code states that the governing body of each county shall adopt order necessary for the county to be eligible to participate in the National Flood Insurance Program. As the governing body of Comal County, Texas, the Comal County Commissioners Court adopted Order 232 – Flood Damage Prevention Order on August 13, 2009. Furthermore, Section 16.315(6) of the Texas Water Code authorizes Comal County to declare property to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and to notify the Director [of FEMA], or whomever the Director designates, of such property.

**6) Owner Notification of Declaration and Possible Denial of Flood Insurance:**

The original violation notice was sent by E-Mail with receipt confirmation on August 3, 2021. A copy of the violation notice is attached. A letter of notification of declaration and possible denial of flood insurance was sent by E-Mail with receipt confirmation on August 24, 2021. A copy of the letter is attached.

**7) Statement:**

This declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.



## Comal County

OFFICE OF COMAL COUNTY ENGINEER

### NOTICE OF VIOLATION

August 3, 2021

Angelica Albanese  
Via E-Mail  
Angelica@cibolocreekvineyards.com

Location of Violation:  
29675 Bulverde Lane  
0.772 acres out of the G. Herrera Survey  
192, Abst. 206  
Comal County  
Floodplain Enforcement Case #100084

#### **Comal County Flood Damage Prevention Order:**

“A person commits a violation of this Order if a person:

- (a) erects, constructs, or alters any improvement, or places any material in the Area of Special Flood Hazard without an approved Development Permit; or
- (b) allows or permits the erection, construction, or alteration of any improvement, or allows or permits the placement of any material in the Area of Special Flood Hazard without an approved Development Permit.”

This is an official Notice of Violation that your property is in violation of the Comal County Flood Damage Prevention Order and the Texas Water Code, Chapter 16. Improvements have been made on an existing building in the Regulatory Floodplain creating a Substantial Improvement without a permit. **You must immediately stop development in the regulatory floodplain and comply with the following instructions:**

Within **thirty (30) calendar days** from the date of this notice, you must:

- A. Obtain and submit to the Comal County Engineer's Office a Floodplain Development Permit Application.
  - (1) Attached to the Floodplain Permit Application, you must submit a copy of the recorded deed for your property.
- B. Obtain and submit to the Comal County Engineer's Office an Improvement Plan.

**Comal County**  
OFFICE OF COMAL COUNTY ENGINEER

August 3, 2021  
Page Two  
Floodplain Violation Notice

- C. Obtain and submit to the Comal County Engineer's Office for review an engineering analysis. Such analysis must demonstrate that the improvements cause no adverse impact to the regulatory floodplain. If the conditions of your improvements do cause an adverse impact upon the floodplain, the engineering analysis must demonstrate the mitigating steps you will take to show a net effect of no adverse impact to the regulatory floodplain. Examples of a possible engineering analysis could include:
- (1) Normal Depth Calculations
  - (2) HEC Analysis
  - (3) Grading Plan


**OR**

- A. Return area of violation back to pre-violation state.

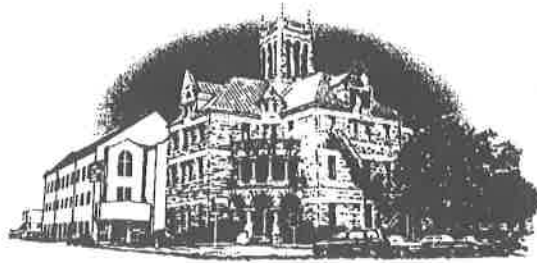
Failure to comply with the Flood Damage Prevention Order and the Water Code by the end of the **30-day notice period** may result in a criminal case being filed on the 31<sup>st</sup> day if the violation is not abated. A fine of \$200 per day may be assessed for non-compliance.

Please address any questions concerning this Notice of Violation to the Floodplain Coordinator, Kathy Griffin, at (830) 608-2090.

Signed this 3<sup>rd</sup> day of August 2021

  
Kathy Griffin, CFM

cc: Scott Haag, Comal County Commissioner, Precinct 2



## Comal County

OFFICE OF COMAL COUNTY ENGINEER

Via E-mail with Receipt Confirmation  
[angelica.albanese@exprealty.com]

August 20, 2021

Mailing Address:  
Angelica Albanese  
1922 Winding View  
San Antonio, TX 78260

Location of Violation:  
.77 Acres out of the G. Herrera  
Survey 192, Abstract 206,  
known as 29675 Bulverde Lane  
Comal County

Dear Ms. Albanese:

Please find this letter to serve as a Notification of Section 1316 Declaration and Possible Denial of Flood Insurance. In August of 2021 the Comal County Engineer's Office became aware that an existing building in the regulatory floodplain had been improved by more than 50% of the value of the building, creating a substantial improvement below the base flood elevation. To this date, no permits have been approved for this property. Notice of this violation was sent to you on August 3, 2021. You have indicated that no corrective action will be taken to bring this property into compliance with the Comal County Flood Damage Prevention Order.

This is to notify you that pursuant to section 1316 of the National Flood Insurance Act of 1986, on September 9, 2021 the Comal County Commissioners Court will consider declaring the structures on the above property to be in violation of the Comal County Flood Damage Prevention Order. A draft of this proposed declaration is attached. If the structures are declared to be in violation, Comal County will forward this Section 1316 Declaration to FEMA. Upon a finding by FEMA of a valid Declaration, new and renewal flood insurance shall be denied to a structure found in violation; and the Declaration will be recorded in the Real Property Records of Comal County.

All Structures on the property are to be included with this Section 1316 request.

Sincerely,

Kathy Griffin, CFM  
Floodplain Coordinator

cc: Scott Haag, Comal County Commissioner, Precinct 2