

## **Buying a house? Want to know if it floods? It might be hard to find out.**

### Marketplace

Two weeks after Pam Sidman and her family moved into their new condo in Brooklyn in September, New York City got historic, torrential rain.

That morning, her wife, Kelly, looked out their bedroom window into the yard and noticed water backing up by their son's bedroom door. She ran downstairs to find it gushing in from under the door.

"We didn't know what to do, there was no stopping it. It was just pouring in," Sidman said. "And then it started coming out from the toilet."

And from under the door that leads to the building's hallway, too.

They frantically tried to raise and rescue what they could, but there wasn't much else to do. Sidman estimates that they ended up with about five to seven inches throughout the whole bottom floor.

Within maybe an hour or so, it receded. But they had to throw out a bunch of furniture, replace all the wooden doors and baseboards, the bathroom vanity and the washing machine, and rip out four feet of wall downstairs.

When they did that, they noticed something, Sidman said: "We could see the metal support beams, once they cut the walls, that had rust on them."

That made them wonder if the apartment had maybe flooded in the past. Then a woman who was doing repairs for the building came in to take a look, and they learned it had.

"She said, 'Oh yeah, I remember this, I was here last year cutting your walls,'" Sidman said. "Like, oh, okay!"

The previous owners hadn't said anything about past issues with flooding. Neither had the condo board. And the thing is, they didn't have to.

In New York, sellers are not required to disclose their home's flood history or risk. Instead, they can choose not to disclose all sorts of information about the property, including flood history, and just give the buyers a \$500 credit instead.

"So what was happening is about 80% of real estate transactions were happening without disclosure," said Tyler Taba, senior manager for climate policy at the nonprofit Waterfront Alliance. "And so a lot of people were kind of in the dark about what their flood risk might be and what the flood history of a property might be."

That is about to change. In September, New York Governor Kathy Hochul signed a new flood disclosure law that makes it so sellers can no longer opt out of disclosing their home's flood history or risk.

Starting in March, when it goes into effect, anyone selling a home in the state will be required to tell the buyer if the property has flooded before. They'll also be required to disclose if it's in a FEMA flood zone, and whether flood insurance is required. Landlords will also have to disclose that information to renters.

New Jersey passed a similar law this summer. Other states, including North and South Carolina, have recently enacted or strengthened flood disclosure laws, too.

"We've seen, mostly in the past few years, a really big uptick of these laws, and also the quality of the laws," said Kate Boicourt, director for the climate resilient coastal watersheds program of New York and New Jersey at the Environmental Defense Fund.

Thirty two states now have some kind of flood disclosure law on the books, according to the Natural Resources Defense Council. Of those, NRDC grades four — Maryland, Minnesota, Wisconsin and Hawaii — with a D. New York and New Jersey are among the five other states that get an A, in part, because their new flood disclosure laws include renters.

"Most states, I'd say 90% of the states have no disclosure laws for renters," said Joel Scata, a senior attorney at the Natural Resources Defense Council. "And that's a huge problem, because renters often have less assets to rely on if they suffer a flood, so they don't have the ability to recover as quickly as a

homebuyer might.”

If New York’s disclosure law had been in place back in 2020 when Natalie Zarrelli and her husband moved into their current apartment in Brooklyn, she doesn’t think they would have ever signed the lease.

Their apartment is a two-bedroom duplex, half at street level, half at basement level, and it’s rent-stabilized, so it’s more affordable than most market-rate apartments.

When they found it, Zarrelli said, “We thought this is great, we can stay here for forever, we can have a family here.”

But less than a year after they moved in, the whole lower level flooded in a heavy rain storm. Then it flooded again, a week later. Since then, it’s become almost a regular occurrence. Just this past September, she said, it flooded four times.

They’d like to move, but rents in New York have gone way up in the last couple years, and Zarrelli got laid off from her publishing job recently, so they have less income. They’re also expecting a baby.

“We stay because we can’t now afford to leave,” she said. But she wishes they had known about the flooding before they moved in.

Anna Gracey feels similarly. She moved into her first-floor apartment, in Cranford, New Jersey, in 2020, and initially felt great about it. She loved the location, just a 10 minute walk from downtown.

Then, about a year later, the remnants of Hurricane Ida brought intense, record rain to parts of New York and New Jersey, including Cranford.

“That night we didn’t get any kind of warning or notifications, we just noticed heavy rainfall,” Gracey said. “But around, I think 8:30 or nine o’clock, I went out to the street with my partner, and the water was past my thighs, almost up to my waist.”

In a panicked moment, she thought of her car, parked on the street, and thought maybe she should try to move it, but she quickly realized it was too dangerous. The next day, when the water receded, she and her boyfriend went out to look.

"It was wet inside my car, and actually there was water in the cupholders still," Gracey said. "And in my partner's car, we actually opened up his trunk, and we were looking at the wheel well inside his trunk, and there was actually water and there was a small fish swimming around."

It was only after the storm that they learned that the apartment was in a flood zone.

"I've never lived in a flood zone before in my life, and it's not something I've really thought about when renting an apartment," Gracey said. "I definitely, if I move again, would really take that seriously before renting an apartment or signing a lease."

That's the point of flood disclosure laws: to make sure people know about the risks, and can make an informed choice.

"Really what they do is create awareness around the issue," said Jeremy Porter, the head of climate implications research at the nonprofit First Street Foundation. "There's statistically significant differences between people that are exposed to this information, and those that aren't, and the properties that they choose after being exposed to this information."

One study, from Redfin, found that when people are shown information about flood risk when they're looking at homes they're more likely to choose one with lower risk. Another, from FEMA, shows that people are more likely to buy flood insurance if they live in a state with strong flood disclosure laws.

Amy Bach, executive director of the consumer advocacy nonprofit United Policyholders, said that is important, because regular homeowners' and renters' insurance don't cover flood damage. But few people buy flood insurance if they're not in a high-risk FEMA flood zone where it's required by law.

"Many more homes in the United States have flood risk than have flood insurance," Bach said. "So if we want to try to narrow that protection gap and get people better protected against the risks that they face, we do need to open people's eyes more about what those risks are."

Even strong disclosure laws don't necessarily give people the full picture, especially as the climate changes. They often use FEMA flood hazard maps to give buyers a sense of a property's vulnerability, but many FEMA maps are old and outdated. They don't take sea level rise into account, and often don't show the increasing risk of flooding from heavy rain, either.

There are other maps and tools people can look at — including one from the First Street Foundation — that do factor in climate change and how it's raising flood risk in many parts of the country. But people have to know to seek those out themselves.

"The risk exceeds what the government is actually telling us in regards to who's in a flood zone," said Jeremy Porter, at First Street. "And because of that, they're actually missing quite a bit of risk across the country."

Still, he said, flood disclosure laws do give buyers, and renters, a lot of valuable information. Information Pam Sidman wishes she and her wife had had before they spent roughly \$2 million dollars on their condo in Brooklyn.

"Honestly, I feel like we got a lemon and regret that we didn't do due diligence, maybe, or we didn't know the learning curve or just the right questions, I don't know," Sidman said. "I just feel a little like kicking ourselves."

She also figures they could end up losing money on the condo in the future if they sell, since they will now be required to tell buyers that it's flooded before, under New York's new law.

"I think it'll probably kick us in the butt," she said. "My hope is that in the year they will remediate. And that's all we can hope for at this point, and count on, so we don't take a total loss or total hit."

But, law or no law, Sidman said she can't imagine hiding the condo's flood history, either.