

## The Hills of Rivermist: A Centex Hazardous-Land Subdivision

From: Western North Carolina Landslides blog, Friday, April 2, 2010 [highlights, emphasis & HOT comments added], <http://wncsos.blogspot.com/2010/04/hills-of-rivermist-centex-hazardous.html>



Rodolfo Gonzalez/AMERICAN-STATESMAN

*Views of The Hills of Rivermist Subdivision Landslide— January 25, 2010*

### Landslide in The Hills of Rivermist Subdivision Endangers Homes

Twenty-seven homes in Rivermist and The Hills of Rivermist Subdivisions have been red-tagged because sections of a landside-prevention retaining wall failed. Centex, the developer of Rivermist and The Hills of Rivermist, has offered to compensate property owners above and below the slide area with buybacks.

### The Hills of Rivermist Landslide-Prevention Retaining Wall

On February 4, 2010 **Roderick Sanchez**, director of the Planning and Development Services Department for the City of San Antonio, [stated](#) in his findings memorandum that **Centex violated the International Residential Code and the International Building Code** by neglecting to obtain a permit for the Hills of Rivermist retaining wall.

Mr. Sanchez noted that there were several factors that likely contributed to the wall's instability:

#### Rivermist buybacks

In the wake of the retaining wall collapse, Centex has made offers to buy back homes from 27 homeowners in the Rivermist and Hills of Rivermist neighborhoods.



- **Design failure** in that wall was never properly designed in the first place.
- **Construction failure** in that wall was not built in accordance with the engineered plans and specifications (this determination has been made in the portions observed).
- **Slip failure** of the soil strata below the wall. [HOT: Our "[Water Balloon Theory](#)" debunks the "slip failure" claim and questions the effectiveness of new wall designs.]

The city is holding Centex responsible for creating a public hazard. As a result, Centex has agreed to assume liability for its actions and will build a new safety wall. Plans for the landslide-prevention wall have been approved at a cost of four to five million dollars.

### The Hills of Rivermist Homes

Property owners **outside the landslide hazard area** have told the media that their Rivermist homes are exhibiting signs of earth movement damage such as cracks and pop-out nails. This type of structural distress is caused by unstable soils.

### Homeowners' Insurance

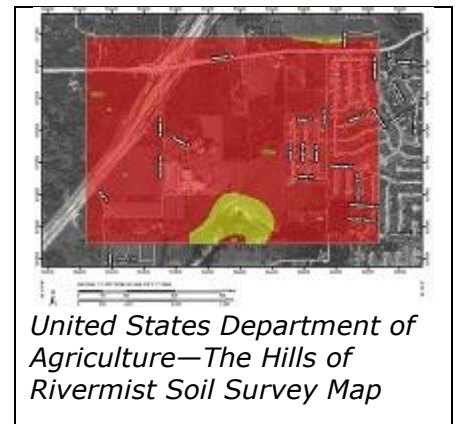
The Hills of Rivermist property owners who have experienced structural damage have to depend on Centex for repairs because **they have no insurance protection: Homeowners' policies nationwide exclude losses caused by earth movement.**

### The Hills of Rivermist Soil Survey

Thanks to the efforts of **Wayne Caswell**, a member of the advocacy group **Homeowners of Texas**, soils in The Hills of Rivermist Subdivision have been [identified](#).

The three predominate soils in The Hills of Rivermist building site are Anhalt clay (map symbol Ca), Crawford and Bexar stony soils (Cb) and Brandon clay (HtA). These soil compositions are classified "expansive" and are not recommended as a support for home construction.

Mr. Caswell notes that according to the USDA's Web Soil Survey, 94.6% of the selected Area of Interest representing Hills of Rivermist is "Very Limited" for residential construction.



### Hazardous-Soil Findings

#### Bexar County, Texas Soil Survey 1966

The Bexar County Soil Survey, a cooperative endeavor by the U. S. Department of Agriculture, the Texas Agricultural Experiment Station, and the City of San Antonio was undertaken to **prevent costly mistakes in land use planning** for agriculture and residential development.

Soil identification [serves](#) two purposes:

Suburban residential development and the accompanying extension of public utilities and establishment of business and recreational facilities create a need for soils information somewhat different from the information needed for purposes of agriculture. Land

appraisers, realtors, city planners, builders, and others need to have facts that will help them to know what sites are suitable for homes or other buildings and what areas should be reserved for other uses.

Sites for houses, industrial buildings, and public utilities need to be carefully studied before construction is begun.

Some of the soils in Bexar County shrink and swell enough to crack foundations and walls.

### **FHA: Building on Expansive Soils will Result in Severe Structural Damage**

In 1974 the Federal Housing Authority [warned](#) that buyers should be made aware of the consequences of building homes and other structures on expansive soils:

Severe damage to building foundations can result from "swelling" or "expansive" soils. These soils, usually cohesive clays, can swell or shrink as they go from the dry to the wet state or vice versa. This alteration in moisture can cause a volume change which creates large differential movements within the structure and thus causes excessive cracking of floors, walls, and foundations. Soils with expansive characteristics must be recognized in order to evaluate properly their stability as foundation material.

Studies commissioned by the FHA in the 70s determined that expansive soils were common in Bexar County, Texas.

### **"Department of the Army USA, Technical Manual TM 5-818-7, Foundations in Expansive Soils, 1 September 1983."**

For the reasons [cited](#) below [government buildings are not constructed on expansive soils](#):

b. Occurrence of damages. Damages can occur within a few months following construction, may develop slowly over a period of about 5 years, or may not appear for many years until some activity occurs to disturb the soil moisture.

c. *Structures susceptible to damages.* Types of structures most often damaged from swelling soil include foundations and walls of residential and light (one- or two-story) buildings, highways, canal and reservoir linings, and retaining walls. Lightly loaded one- or two-story buildings, warehouses, residences, and pavements are especially vulnerable to damage because these structures are less able to suppress the differential heave of the swelling foundation soil than heavy, multistory structures.

### **Fraudulent Concealment of Hazardous-Soil Conditions**

It is clear from the referenced documents that the San Antonio Planning and Development Services Department and the developer Centex knew that home sites throughout The Hills of Rivermist Subdivision were threatened by hazardous-soil conditions.

The San Antonio Planning and Development Services Department has received queries about soil conditions in The Hills of Rivermist Subdivision. The city's [response](#):

The department does not require a builder to submit soil information. Instead, at the time a builder submits its application for a residential building permit, the Code

allows the builder the option to hire a licensed professional engineer to design the foundation system for your home in accordance with the Residential Building Code.

### **Complicity**

Because Planning and Development does not require soil analysis as a prerequisite for building permits, hazardous-land data is not recorded on plats. If this pertinent information is not disclosed on plats, it does not appear on real estate sales contracts.

### **The Hills of Rivermist Hazardous-Land Real Estate Disclosure Statement**

Centex failed to reveal a material fact—unstable soil conditions—on their Hills of Rivermist sales contracts. **If purchasers had received the following risk disclosure statement, it is unlikely that they would bought homes in this subdivision.**

#### **The Hills of Rivermist Hazardous-Land Disclosure Statement**

*Please be advised that you are buying a home that has been built on unstable soils. The Federal Housing Authority advises that homes built on expansive soils are likely to experience severe structural damage.*

### **Hutto Parke Hazardous-Land Conditions**

The Hills of Rivermist Subdivision is not the only Texas residential community to be affected by hazardous-land conditions. **Lennar**, the developer of **Hutto Parke**, exposed their clients to **two significant undisclosed risks: arsenic-contaminated land and expansive soils**. For additional information please [visit](#) the Hutto Parke Web site.

### **Binding Arbitration**

**Those purchasing new homes in Texas and numerous other states are denied judicial review of builder-caused defects because of binding arbitration clauses in new home real estate sales contracts.** Questions of real estate fraud remain under court purview.

### **Federal Action**

Texas lawmakers have failed to force disclosure of hazardous-land conditions for the usual reasons. Contractual disclosure would have a disastrous impact on real estate development and sales. **[HOT would have preferred the term "negative" impact when referencing home sales since the "disastrous" impact is on home buyers.]**

Earth movement events: landslides and unstable soils affect property owners in all states. **A conservative estimate of the uninsurable losses caused annually by hazardous soils is several billion dollars.** Comprehensive, indisputable risk data is available through various state and federal agencies but this information is not communicated to purchasers.

**The only solution to the industry's country-wide practice of selling high risk real estate is passage of a federal Hazardous-Land Disclosure Law. [YES! HOT supports that.]**