

Over 20 Years Working for Texas Neighborhoods



2011 Legislative Agenda

Texas Neighborhoods Together
An Alliance of Texas Neighborhood Groups – Founded in 1989

*Steward of the common ground shared by
all neighborhoods in Texas*

★ Member Alliances

Austin Neighborhoods Council
(ANC)

Dallas Homeowners League
(DHL)

Garland Homeowners Coalition
(GHC)

Greater Houston Neighborhood
Associations (GHNA)

Greater Lake Palestine Council
(GLPC)

Lake Conroe Communities
Network (LCCN)

North Dallas Neighborhood
Alliance (NDNA)

North Fort Worth Alliance
(NFWA)

Plano Homeowners Council
(PHC)

San Antonio Neighbors Together
(SANT)

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Texas Neighborhoods Together

Founded and chartered in 1989, *Texas Neighborhoods Together (TNT)*, a Texas nonprofit corporation, serves as a permanent statewide organization for community-based alliances that represent neighborhoods on a citywide or larger basis. An all-volunteer organization, *TNT* works to empower neighborhood leaders through education, networking, and serving and protecting neighborhood interests at all levels of government.

TNT's mission is to advance neighborhood interests on the local, state, and national levels by:

- ★ Improving communication and coordination among neighborhood organizations in Texas
- ★ Advancing the concept of neighborhood self-determination
- ★ Encouraging more effective participation of citizens in local, county, and state government
- ★ Enhancing the quality of life for all citizens of Texas
- ★ Supporting city ordinances as well as state and federal laws and regulations conducive to these ends.

A board of directors elected annually by its member organizations coordinates *TNT's* programs and actions. The Board meets the first Saturday of even-numbered months in the home city of a member organization.



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Texas Neighborhoods Together
2011 Legislative Agenda

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Who Represents Texas Neighborhoods?

There is only one organization active in this legislative session that has the interests of neighborhood residents wholly at heart, **Texas Neighborhoods Together** (TNT). TNT represents the volunteer leaders of property owner, homeowner, and neighborhood associations. These associations include mandatory owner associations, voluntary owner associations and voluntary neighborhood associations (including owners, tenants, and even churches and businesses). These associations are located both in and outside cities. (Those located outside cities are generally in rural areas, the extra-territorial jurisdiction of a city, as well as on the north side of the metropolitan Houston area.)

About half of the associations represented by TNT are mandatory and half are voluntary. Approximately half of the mandatory associations are self-managed. The remainder employs professional staff or management companies.

Concerned about their vitality and continuity of their neighborhoods, TNT representatives are particularly sensitive to the demands that legislation can place on the time and motivation of the volunteers that govern and, in most cases, run their associations. Legislation directed toward a short-term fix in one area can have deteriorating, long-range effects on hundreds or thousands of associations and homeowners across the state.

There are several other organizations active in this legislative session that are involved in neighborhood and HOA issues. However, each has a unique perspective and distinct commitment.

The **Texas Community Association Advocates** (TCAA) of the Community Associations Institute (CAI) and the **Texas Association of Community Management Companies** (TACMC) include professionals who provide and charge for services to mandatory associations. The associations they serve include not only some of the associations in the TNT family, but also associations controlled by developers and builders as well as condominium associations. While concerned about their communities, TLAC and TACMC representatives must also be sensitive to the effects legislation can have on attorneys, property managers, and other professionals that serve associations.

The **Texas Municipal League** (TML) is governed by elected and appointed city officials. While concerned about city residents, TML representatives are particularly sensitive to the fiscal impact and mandates that legislation might impose on cities.

There are sometimes conflicts between these different perspectives, but together these organizations can be very effective in ferreting out and articulating all the ramifications of legislation that can affect Texas neighborhoods and associated stakeholders.

Introduction

Each biennium *Texas Neighborhoods Together* develops a legislative agenda by the majority vote of its member alliances. The agenda comprises two parts:

Priority Package	Issues that <i>TNT</i> members consider the most critical for preserving and maintaining the integrity of Texas neighborhoods during a particular legislative biennium. <i>TNT</i> members pledge to focus their most vigorous attention and greatest resources on legislative proposals having the capacity to impact any item in the Priority Package
Support Package	Issues of deep concern that <i>TNT</i> members will closely watch for legislative developments and potential advocacy efforts

Texas Neighborhoods Together implements its legislative agenda by

- ★ Drafting legislation
- ★ Monitoring the progress of proposed legislation
- ★ Meeting with Legislators
- ★ Presenting testimony in public hearings
- ★ Leading grassroots advocacy campaigns
- ★ Providing information to the Public

As issues arise in various areas of the state, we work collectively to preserve neighborhoods with telephone calls and letters of support to decision-makers. Together, we sponsor educational programs and share instructional materials, “best practices,” and newsletters to benefit the individual neighborhoods that our members represent. We network with other organizations that share our interests and form alliances for mutual support.

Priority Package Summary

Municipal Authority

Support, protect and enhance local governmental authority with regard to:

- ★ zoning (including authority to regulate commercial development on state-owned land)
- ★ amortization of undesirable uses
- ★ notification process for incompatible uses in and near neighborhoods
- ★ protection of historic neighborhoods and structures
- ★ enforcement of health, safety, and nuisance ordinances
- ★ defense of deed restrictions

Texas Neighborhoods Together will oppose all bills that would deny or restrict any of these powers, including removing the municipal regulation exception of the 1995 property rights legislation.

Property Owner and Homeowner Associations

Support public policies that preserve and protect the long-term continuity of property owner and homeowner associations, that support and encourage the volunteers who serve them, and oppose policies that disregard the collective interests of the property owners who comprise their memberships.

Energy and Water Conservation

Empower neighborhoods to adopt local community standards that allow and encourage energy and water conservation

Water Utility Rate Making Authority

Support a transfer of the utility rate making authority for water from the Texas Commission for Environmental Quality (TCEQ) to the Public Utility Commission (PUC).

Deter SLAPP Suits

Amend state law to deter lawsuits against organizations and individuals that are designed to discourage or penalize their involvement in civic affairs (“**Strategic Lawsuits Against Public Participation**”).

Public Disclosure of Real Estate Sales Prices

Amend current law to require public disclosure of real estate sales prices. Because such information is almost universally known for residential properties, a disproportionate tax liability is borne by homeowners because such information necessary for fair and accurate appraisals is not disclosed in other real estate sectors.

Primary Contact for More Information:

David Smith, Legislative Coordinator (972) 516-3849

Support Package Summary

Deed Restriction Amendments

Adopt state law that makes it easier for neighborhoods to amend their deed restrictions by reducing the common requirement of approval by a super majority to a simple majority.

Alcohol Issues

Enhance the ability of neighborhoods to mitigate the negative effects of alcohol-serving businesses.

Notification

Improve neighborhood protection by requiring state and local governments to notify property owners within 400 feet of incompatible uses that are proposed to be placed in and near neighborhoods.

Homeowner Insurance Reform

Provide protection for homeowners through the Texas Department of Insurance to preclude the use of private credit records to determine insurance rates, to require insurance companies to attain approval and justify rate increases before they go into effect, and to require insurers to disclose how they set the rate.

County Authority:

- ★ Grant counties the authority to adapt building codes and to regulate certain noxious land uses in areas outside the limits of an incorporated city.
- ★ Grant certain counties regulatory authority around military facilities in limited circumstances and provide notice to prospective buyers.
- ★ Grant certain counties regulatory authority to establish thoroughfare plans that interconnect neighborhoods to alleviate hazardous access points on highways and roads.

Recorded Votes

Reform rules of the Texas House and Senate to require the public disclosure of each lawmaker's vote at every stage of the legislative process.

Regulation of Group Homes for Elderly and Disabled Residents

Monitor cities' development of regulations for group homes for elderly and disabled residents as permitted by H.B. 216 in order to determine whether additional legislation is needed.

<p>Primary Contact for More Information:</p>

<p>David Smith, Legislative Coordinator (972) 516-3849</p>

Priority Package Position Papers

Issues that TNT members consider the most critical for preserving and maintaining the integrity of Texas neighborhoods

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Preserve city authority to
rezone land including or
adjacent to residential
neighborhoods.**

PRIORITY

Municipal Authority: Zoning

Recommendation

Preserve city rezoning authority with no additional inhibitions or restrictions.

Background

Many cities “overzone” developable land to provide landowners and land-seeking prospective developers a range of options. From an individual landowner perspective, this can be a range of options for developing a particular piece of property. From the developer perspective, this means a choice of available locations for major or minor development.

As development occurs, cities may move to “rezone” land. The new zoning is often designed to match what was actually built. This is very frequently done when residential development has taken place. An objective is to protect the residential neighborhood from potentially obtrusive uses which might be allowed under the previous zoning.

Some believe that zoning is a “property right” and accordingly believe cities have a responsibility to guarantee that land can always have the highest possible value. They seek to inhibit or effectively prohibit the practice of rezoning through requiring city compensation for changes in hypothetical value or other schemes.

Impact

Any measure that would inhibit city rezoning authority of land in or adjacent to neighborhoods can have devastating effects on the quality of life and property value within neighborhoods.

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Grant cities full authority in zoning cases requesting private commercial development on public land controlled by the state

Municipal Authority: Zoning of Public Land

Recommendation

Grant cities sole authority to decide zoning cases of private commercial development on state-controlled public land located within the city limits.

Background

Currently, a City's zoning decision with regard to state land up for sale or lease for commercial use may be overturned by a Special Board of Review, e.g., Natural Resources Code 13.161. While the state's ability to override a city's land use decisions was intended for critical state uses such as hospitals, when applied to private commercial development, it can lead to an unfair business advantage, to eliminate a municipality's ability to plan growth effectively, and to protect its citizens from the harmful and dangerous effects of improperly planned development.

Historically, negating city zoning is virtually guaranteed by the special board, and thus developers are likely to request "super" uses to circumvent future review, regardless of danger to the surrounding community, negative effects on neighborhoods, or a city's overall plan for future growth.

Overturning city land use plans can lead to unfunded mandates whereby cities are forced to expend funds for development plans they rejected – for example, when a development plan includes reimbursement to the developer for sewage construction or road improvements and access to city streets and utilities.

Cities already have authority to zone private land and have done so in a manner that fairly balances business interests with neighborhood interests, while insuring a vibrant economy and high quality of life for Texas neighborhoods.

Impact

Granting cities sole authority to decide private commercial zoning cases on public land in their communities would promote fair business practices and protect communities from dangerous and harmful effects of inadequately or improperly planned commercial development. It would ensure that developers of public land do business in a way that is fair to developers of private land and allow cities to make critical decisions in community planning.



**Improve the notification
process for intrusive land
uses that are proposed to be
located in or near
neighborhoods**

**Improve neighborhood
protection by requiring state
and local governments to
notify property owners
within 400 feet of
incompatible uses that are
proposed to be located in or
near neighborhoods**

Municipal Authority: Notification

Recommendation

Require 30-day advance written notice be placed at the proposed site of incompatible land uses that will be located in or near residential areas before a license or permit for that use may be granted. Require mailed notification to all property owners within 400 feet of the proposed use, twice the statutory minimum distance for other types of notification.

Require that an inexpensive placard be posted on the property, minimum size: 24 inches x 36 inches with two-inch lettering, that the sign be visible from the street, and that the sign be placed at the proposed site at least 30 days prior to the date that the permit or license is to be considered by the permitting or licensing entity. This posting is in addition to other required notification methods such as publication or mailed notice and is intended to supplement rather than supersede those requirements.

Background

Currently, Texas does not have a uniform process for notifying local authorities and residents when intrusive land uses are proposed to be located in or near residential neighborhoods. In most Texas communities today, a new incompatible use is discovered only after construction has begun or the establishment is in place and operating. The current practice of placing a notice in the classified section in an area newspaper is ineffective and rarely reaches those residents directly affected. There are certain land uses that have a detrimental effect on the security and quality of life in neighborhoods, which decreases property values and jeopardizes citizen health and safety.

Impact

A uniform process that provides a timely and informative notice will enable the affected community to have an opportunity to work with local authorities to address the issue and mitigate the potential incompatibility. This process will also provide notification to the appropriate local and state representatives so that they are able to address concerns from an informed position. Typical uses should include establishments selling alcoholic beverages, sexually-oriented businesses, correctional facilities and other incompatible uses which are permitted or licensed by the state and by local governmental entities.



**Amend state law to improve
the ability of a city to
enforce its health, safety
and nuisance ordinances**

Municipal Authority: Code Enforcement

Recommendation

Amend state law to eliminate inconsistencies, to make the process more efficient and to provide for flexibility in service of process.

Background

Enforcement of building, health, and safety codes is the second greatest ongoing concern of neighborhoods, running close behind crime prevention. Cities are hampered in their enforcement efforts by a lack of consistency across the various statutes, which have been amended piecemeal over the years. Some time periods provided by law are overly long and help prolong the health, fire, and safety hazards. Service of process requirements are not flexible and in some cases do not provide for alternative service. These statutorily created inefficiencies cause the waste of millions of dollars of municipal funds annually across the State of Texas. Neighborhood activists who are trying to combat community deterioration experience frustration with the process. Training of code compliance officers is more difficult and more expensive because of the unnecessary and unintentional complexity in the law.

Impact

Neighborhoods would see faster response to premise violations. Living conditions for residents of these properties would improve. Municipalities would realize substantial cost savings, both in training costs and in day-to-day administrative expense.

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Oppose intrusive public
policies that**

- ★ **are inconsistent with
preserving and
protecting the long-term
continuity of property
owner associations**
- ★ **fail to support and
encourage the
volunteers who serve
them**
- ★ **disregard the collective
interests of the property
owners who comprise
their memberships**

**Support a uniform, state-
wide law balancing the
interests of home-owners,
their associations and other
stakeholders**

PRIORITY

Property Owners Associations

Recommendation

Support a comprehensive bill that would become uniform, state-wide law balancing the interests of homeowners, their associations and other stakeholders. Otherwise, preserve existing law with no change.

Background

For the past several years, property owners associations across the country have come under fire for a variety of reasons – ranging from their roles as enforcers of property maintenance and community behavioral standards to their roles as assessors and collectors of funds necessary for providing contractually required services. Stories abound in the media about conflicts between property owners and association boards, and the message conveyed over and over is that association boards are predatory and power-hungry and the property owner is completely lacking in any culpability. Like all sensationalized messages, there are some kernels of basic truth, but that message is usually seriously distorted.

The vast majority of property owner associations are well-run by dedicated volunteers who care about the individuals in their neighborhood and the community as a whole. They conduct themselves honorably and carry out their duties diligently and responsibly, even if those duties are sometimes unpleasant in some eyes.

Without a doubt there are a handful of ill-advised association boards. Likewise, there are a handful of rebellious property owners who believe that restrictive covenants should apply to their neighbors and not to themselves. There are also property owners who innocently run afoul of their associations because they do not understand their rights and responsibilities. Similarly, there are boards that make honest mistakes.

Because associations are becoming the most common form of property ownership, they are inextricable parts of the economic and social fabric of a community – especially in those areas not served by municipal governments, such as unincorporated Harris County, and in some cities and towns, such as Garland, that require them for new residential developments. Any consideration of changes in the law should take the following principles into account:

- ★ The ability of owner associations to timely collect dues and assessments for the maintenance of common infrastructure and the promotion of the community's health, safety, and welfare should not be impaired.

Contact: David Smith (972) 516-3849

- ★ The ability of owner associations to fairly enforce deed restrictions, covenants, and other measures designed to preserve
- ★ The health, safety, welfare, livability, and value of the community should not be impaired.
- ★ Within the limitations of national, state, and local law, and any irrevocable covenants, owner associations and their respective owners should maintain rights of self-determination in regard to their governance and other affairs.
- ★ Volunteering to serve on association boards should be encouraged rather than discouraged.

Impact

The stability of neighborhoods would be protected.

City and county governments currently benefit from the reduced expenses for community amenities that are paid for by owner associations; such as right of way and landscaping maintenance, flood zone maintenance, and wall and entry features. Any erosion of owner associations' ability to exist and provide services will dramatically increase the transfer of these responsibilities to local city and county governments.

**Texas Neighborhoods
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**Legislative
Position Paper**

**Empower neighborhoods to
adopt community standards
that allow and encourage
energy and water
conservation**

Energy and Water Conservation

Recommendation

Give a simple majority of neighborhood property owners the ability to amend deed restrictions.

Empower neighborhoods to adopt community-wide standards. Appropriate state agencies should be charged with working with industry and neighborhood leaders to promulgate standards that can be adopted or adapted by individual neighborhood groups. These standards can be drafted within frameworks provided by other legislation, such as solar rights law, which can be modeled on legislation successfully implemented in other states. Neighborhoods could also be empowered to negotiate mutually beneficial agreements with water and energy providers. These agreements could include measures such as implementing community-wide water conservation measures or providing for grid-tied solar panels on all appropriately situated roofs.

The legislature should be cautious adopting any “one size fits all” legislation in this area. Water, sun, and wind characteristics vary greatly across our state. Also, each individual neighborhood has individual characteristics that would potentially require tailoring any water or energy conservation measure.

Background

Neighborhoods would like to promote water and energy conservation and other measures that reduce negative impacts on our environment or reduce the cost of living for residents individually or collectively.

In some neighborhoods, deed restrictions are a barrier to adopting conservation measures, many of which were written long before society had concern for water or energy conservation. In many neighborhoods, covenants associated with the deed restrictions allow amendments only if agreed to by all or a large supermajority of property owners, essentially making amendments impossible.

Also, legislation proposed in past sessions (and passed, in the case of some water conservation measures) has been counterproductive towards the development of conservation standards that can be adopted by neighborhoods. Proposed legislation called for awarding individual residents a unilateral right to violate deed restrictions or associated rules in association with the installation or operation of certain conservation measures. Apparently due to a belief that such proposed legislation will eventually become law, industry has not been willing to work with neighborhood groups towards the development of standards that could apply to all residences in a community.

In this context, neighborhoods or neighborhood groups means any entity that may adopt rules affecting common areas or the external appearance of residences or their grounds. This may include property owner associations, architectural control committees, civic associations or other neighborhood associations that may engage in the enforcement of deed restrictions. This may also include voluntary neighborhood associations who may adopt standards for promotion of voluntary compliance.

Impact

Water and energy conservation measures that can be implemented across entire neighborhoods will yield more benefits than measures relying solely on individuals. Also, there will be less conflict and more progress if neighborhoods are in a position of adopting standards as opposed to fighting individuals who feel empowered to violate standards.

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**Texas Neighborhoods
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**Legislative
Position Paper**

**Consolidation of State
Agency Responsible for
Water Utility Rate Making**

Water Utility Rate Making Authority

Recommendation

Support a transfer of the utility rate making authority for water and sewer from the Texas Commission for Environmental Quality (TCEQ) to the Public Utility Commission (PUC).

Background

Texas is one of only a few States that does not have a single Agency responsible for all utility rate making. Prior to 1985 the PUC had the rate making authority for water. Since the transfer of this authority from PUC to TCEQ, Privately Owned Utilities (IOU's) have had distinct advantages over homeowners (ratepayers) ability to achieve fair & equitable rates. TCEQ's charge is to ensure that both the interests of the water/sewer ratepayers' and the IOU's are fair and balanced. The best interests of the ratepayer is not being accomplished in that rate increases continue without Public Hearings on appropriateness or reasonableness and in many cases the water quality is unacceptable.

Water/Sewer Privately Owned Utilities (IOU's) have distinct advantages over the ratepayers (homeowners) ability to achieve fair and equitable rates:

1. IOU's are reimbursed rate case expenses, homeowners are not;
2. Current law protects IOU's by means of safeguards such as allowable requests for construction work in progress & interim relief during rate procedures as well as allowable collections on some expenditures even though capital costs are not yet a benefit because the construction or improvements have not yet been completed;
3. TCEQ seldom grants ratepayers (homeowners) requests for rate suspension or interim rates pending a Public Hearing; Typically TCEQ allows and implements any rate increase requested by an IOU on the 60th day after the filing without any Public Hearing.

Impact

The Public Utility Commission has the expertise and procedures in presently place that would allow request for increased rates to be carefully and efficiently studied, reviewed and discussed. This would provide the Texas Homeowners a uniform process and timely review by all parties involved prior to implementation. PUC has the staff, including assigned attorneys, on board which would significantly reduce the legal costs for the homeowner.

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**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Amend state law to deter
lawsuits that are intended
to discourage participation
in the public process
(SLAPP suits)**

Deter SLAPP Suits

Recommendation

Stop SLAPP Suits (Strategic Lawsuits Against Public Participation.) Amend the Civil Practice and Remedies Code to provide that a Defendant may recover litigation expenses if the Plaintiff does not prevail in suits based upon communications relating to or a decision made by a government official concerning matters pending before governmental entities. In addition, give judges the discretion to require the posting of security for litigation expenses where the court finds that the claim arises out of a citizen's or a neighborhood group's participation in a public process. Further, provide that the Defendant shall be entitled to recover damages if the action is brought in violation of Chapters 9 and 10 of the Civil Practices and Remedies Code (relating to frivolous actions.)

Background

Every Texan has the right to participate in civic affairs, to speak freely on public issues, and to contact elected officials about issues of concern. Despite the constitutional guarantee, some parties attempt to discourage participation in the public process by threatening elected officials, private citizens, or neighborhood groups with frivolous but potentially expensive lawsuits. These lawsuits are sometimes called SLAPP suits (Strategic Lawsuits Against Public Participation).

SLAPP suit plaintiffs frequently use ordinary civil claims such as defamation, conspiracy, malicious prosecution, nuisance, and tortious interference with contracts as a means of transforming legitimate public debate into a lawsuit. While these suits are rarely successful in court, they can be very successful in chilling debate and in discouraging the average citizen from participating in the public process. Quite simply, the cost monetarily and time-wise of defending one of these lawsuits can be enough to intimidate even the most stalwart public-minded citizen. Fearful of being the target of future litigation, other citizens also refrain from speaking out.

Impact

Citizens and neighborhood groups will be provided additional protection from the most grievous types of frivolous lawsuits – those lawsuits intended to quell our citizens' right to free speech.

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**Amend current law to
require public disclosure of
real estate sales prices**

Public Disclosure of Real Property Sales Prices

Recommendation

Amend current law to require the public recording of all real property sales prices.

Background

Currently, real property sales prices are not publicly recorded. Because this information is unavailable, it is difficult for appraisal districts to fairly and accurately determine the market value of many properties. The result is that a greater share of the tax burden shifts to the middle-income homeowner because other properties are undervalued. Texas is one of only five states within the nation that does not require mandatory sales price disclosure.

Impact

Because such information is almost universally known for residential properties, a disproportionate tax liability is borne by homeowners because such information necessary for fair and accurate appraisals is not disclosed in other real estate sectors.

Appraisal values of real property will become more accurate. The tax burden on all taxpayers will be more evenly and equitably distributed throughout the state.

Support Package Position Papers

*Issues of deep concern that TNT members will closely watch
for legislative developments and potential advocacy efforts*

Contact: David Smith (972) 516-3849

**Texas Neighborhoods
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**Legislative
Position Paper**

**Adopt state law that makes
it easier for neighborhoods
to amend their deed
restrictions by reducing the
common requirement of
approval by a super majority
to a simple majority**

SUPPORT

Deed Restriction Amendments

Recommendation

Amend the Property Code to allow neighborhoods throughout Texas to extend, reinstate, add to, amend, or modify their restrictive covenants by following inexpensive, streamlined procedures calling for approval by a simple majority of property owners.

Background

Restrictive covenants (“covenants, conditions and restrictions,” “CCRs,” or “deed restrictions”) govern the uses of property as well as the behaviors of individuals living under them and often establish fees for a variety of services and amenities in many neighborhoods throughout Texas. In the vast majority of cases, the neighborhood’s original developer created the documents before any individual lots were sold, precluding any prospective owner’s input in their composition. Moreover, because the developer originated them, the restrictions were written to protect the developer’s short-term interests, often without deep concern for the long-term interests of future property owners. For example, it is not uncommon for restrictive covenants to have caps on assessments that may have served the developer during the marketing of the neighborhood but now are woefully inadequate to provide the services his own covenants mandate. Or, the document may cause architectural controls to expire within ten years of their filing despite the fact that the neighborhood may be seeing new construction, renovation and revitalization well after the ten-year period. Deed restrictions with these shortcomings often require more than a majority of owners to approve changes, with ranges from 75% to even 100% of property owners not being uncommon. Unrealistically high amendment requirements are virtually impossible to achieve, leaving hundreds of neighborhoods throughout Texas unable to accommodate changing circumstances of contemporary residential communities. This seriously compromises their capacity to maintain quality of life and property values, and contributes to unnecessary neighborhood decline.

Currently, Chapters 201, 204, and 206 of the Property Code offer differing methods and approval percentages for property owners to amend, extend, or reinstate their covenants. In some cases, these chapters apply only to limited areas of the state. Chapter 201 also imposes considerable costs by requiring neighborhoods to notify property owners of potential amendments by way of certified mail, an expensive undertaking for those neighborhoods not empowered to collect assessments to finance the change process. The problem of out-of-date, virtually unchangeable covenants is not restricted to only a few counties — it is widely spread across Texas. Therefore, it requires a statewide solution.

Impact

Neighborhoods with out-of-date, defective restrictive covenants will be able to amend them efficiently and successfully, thereby protecting property values, enhancing quality of life and contributing to Texas’ economic vitality.

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**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Enhance the ability of
neighborhoods to mitigate
the negative effects of
alcohol-related businesses**

SUPPORT

Alcohol Issues

Recommendations

Repeal Section 109.57 of the Texas Alcoholic Beverage Code and reinstate the zoning power of home rule municipalities over alcohol-related businesses.

Amend Texas Alcoholic Beverage Code Section 11.61(d) to provide for an automatic 30-day suspension of TABC permits on the fourth and any subsequent violation.

Background

In 1987 the legislature added Section 109.57 to the Texas Alcoholic Beverage Code, which substantially restricted the right of a city to use its zoning power to control the location of alcohol-related businesses. This amendment eliminated a city's ability to distinguish by zoning between a business that sells alcoholic beverages (a bar, restaurant or hotel) and a business that does not sell alcoholic beverages. This change was made despite overwhelming evidence linking the sale and on-premise consumption of liquor to neighborhood decline.

A small number of alcohol-related businesses account for the majority of problems that adversely affect neighborhoods. Frequent offenders have little or no incentive to comply with existing state laws because there is no certainty of punishment. Current law leaves the suspension or revocation of a TABC license to the discretion of the Commission and the Administrator, none of whom are directly answerable to the citizenry. An automatic 30-day suspension of their permit would deter those businesses who now ignore the law with impunity and who consider TABC fines to be a mere cost of doing business.

Impact

By reinstating local control over the location of liquor sales, municipalities can reverse the decline of residential neighborhoods. Local authorities are in the best position to determine which locations are appropriate and which are not.

Providing for certainty in punishment of frequent violators would eliminate the economic incentive for noncompliance with TABC rules that exists under current law.

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Legislative
Position Paper

Provide protection for
homeowners through the
Texas Department of
Insurance

- ★ to completely preclude credit reports from being used to prevent an owner's ability to sell or buy a private home in Texas
- ★ to regulate insurance rates so that insurance companies are required to obtain approval for and to justify rate increases before they go into effect

Homeowners Insurance Reform

Recommendation

Support legislation to insure accessibility and affordability of homeowners insurance to the citizens of Texas.

Background

Insurance companies use credit reports to investigate the claims histories of potential policyholders for both home and auto coverage. If a potential buyer is interested in a property with a prior claim listed on the CLUE Report, such as a leak in the foundation or hail damage, the house may be rendered uninsurable. A lender will not provide the buyer with a mortgage unless the house is insured. The seller's only recourse is not to sell at all or walk away from the mortgage. Remembering the large number of foreclosures in the late 1980s when the investment rules changed must give pause to this current circumstance.

The use of credit scoring is grossly unfair for rating homeowners' insurance — especially for older homeowners who tend to use cash rather than credit and pay their bills on time, but results in a low credit score. The scoring system itself is subject to multiple errors that negatively affect a score, such as duplicate listings of debts and erroneous entries. Generally, only surplus lines will provide insurance for properties or owners with prior claims histories or with low credit scores. Because of high cost, insurance with a surplus line is less than desirable. These conditions have the potential to cause thousands of neglected or abandoned homes throughout Texas, creating a burden on lending institutions, municipalities, individual homeowners, and the State government.

The Legislature passed a partial fix on the issue of credit scoring in the 2005 legislative session. Unfortunately, this fix did not go far enough. *Texas Neighborhoods Together* calls for a complete ban on the use of credit scoring.

Additionally, homeowners' insurance rates have continued to increase despite the fact that coverage has decreased. *TNT* also calls on the Legislature to protect homeowners from skyrocketing rates by requiring that insurance companies justify rate increases and attain approval before they go into effect.

Impact

The residential property market will remain viable, homeowners will not suffer, foreclosures will not increase, and the economy will not be impacted due to lack of homeowner insurance coverage.

[* The CLUE® database tracks claims on properties and property owners. CLUE® is a voluntary repository supplied by carriers of homeowner's insurance policies for the nation. It can tell an inquiring insurer the name and address of the policyholder and whether there has been a claim for water, earthquake, tornado, fire and other losses, and the damage claim amount paid. If the insurer thinks the house is a poor risk for another catastrophe, a homeowner's policy can be refused to the buyer. Without insurance, the buyer cannot get a loan, which precludes the sale.]

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Grant counties the right to
adopt building codes and to
regulate certain noxious
land uses in areas that are
not part of any municipality**

SUPPORT

County Authority: Land Use Authority

Recommendation

Grant all urban/suburban counties the authority to adopt minimum building codes and to regulate certain types of land uses, such as fireworks stands, billboards, labor agencies, private landfills, and junkyards in areas that are not part of any municipality. Counties should also have the right to regulate uses that have a regional impact that are outside the jurisdiction of a municipality. This change would apply only to a county that: has a population of more than 800,000 and in which more than 80 percent of the population lives in a single municipality; or is adjacent to such a county.

Background

Currently, counties have little or no authority to guide and control development by adopting minimum building codes or by regulating adjacency and land use issues. Planned communities that are located outside the territorial limits of a city have no protection from incompatible uses. Residents of these areas have no assurance that minimum building codes were followed in the construction of residential and commercial properties. Substandard construction leads to earlier decay of buildings and deterioration of neighborhoods.

Counties already have the right to regulate the location of sexually-oriented businesses adjacent to schools, churches and neighborhoods, and have done so in a manner that has been unobtrusive and fair. Certain counties have already been granted additional authority in the Local Government Code, and the exercise of these powers has benefited those communities without creating additional problems.

Impact

Adoption of minimum building standards would improve the quality of construction in the county. Additional authority over other noxious uses would provide for the protection of stable residential neighborhoods located outside of the territorial limits of a city.

Contact: David Smith (972) 516-3849

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Grant certain counties
regulatory authority around
military facilities in limited
circumstances and provide
notice to prospective buyers**

SUPPORT

**County Authority:
Preservation of Military Installations**

Recommendation

Grant certain counties regulatory authority around military facilities in certain circumstances. In an unincorporated area located within five miles of the boundary of a military installation, the commissioners court of the county that contains the area may: (1) regulate the platting or clearing of a tract of land larger than two acres if clearing more than 20 percent of the trees on the tract of land is proposed; (2) require developers proposing to develop a tract of land in the area to provide notice to and opportunity for comment by commanders of affected military installations; and (3) require developers of a tract of land in the area to provide notice to prospective buyers of the land relating to potential noise and dust problems that could result from locating in close proximity to an active military installation.

This change would apply only to a county that: has a population of more than one million and in which more than 80 percent of the population lives in a single municipality; or is adjacent to such a county.

Background

Currently, counties have little or no authority to guide and control development. The area that surrounds military installations will be frequented for military and national security purposes by residents from many parts of the state and nation; orderly development, use, and sustainability of the area is of concern to the entire state; and without adequate protection regulations, the area will tend to become congested and to be used in ways that interfere with the proper use of the area as a secure location for the continuation of a military establishment.

Impact

Adoption will serve the purpose of protecting and preserving places and areas of military and national security importance and significance and encouraging state and national security.

Contact: David Smith (972) 516-3849

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Grant certain counties
regulatory authority to
establish thoroughfare plans
that interconnect
neighborhoods to alleviate
hazardous access points on
highways and roads**

SUPPORT

County Authority: Thoroughfare Planning

Recommendation

Grant all urban/suburban counties the authority to establish minimum standards for roadway connectivity to neighborhoods. This change would apply only to a county that: has a population of more than 800,000 and in which more than 80 percent of the population lives in a single municipality; or is adjacent to such a county.

Background

Currently counties have little or no authority to oversee where new roadways are built. In some rapidly growing counties this has resulted in an unsafe situation in which many new neighborhoods have been built which are minimally connected to the existing road network. Often the only access to such a neighborhood is a single two-lane road that connects to a highway, and many neighborhoods with such limited accessibility may adjoin a single highway. When an accident or traffic back-up effectively closes that highway, there is no longer a way to access any of those neighborhoods and the ability of emergency vehicles to access neighborhoods is greatly reduced.

Impact

Adoption of minimum standards for roadway connectivity would improve the safety of residents of neighborhoods that are outside the territorial limits of a city by increasing emergency vehicle access to those neighborhoods.

Contact: David Smith (972) 516-3849

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

Reform rules of the Texas House and Senate to require the public disclosure of each lawmaker's vote at every stage of the legislative process

SUPPORT

Recorded Votes

Recommendation

Each house of the state legislature should reform its rules to require the disclosure of each lawmaker's vote at every stage of the legislative process including:

- Amendments
- Second reading
- Third reading, or final passage
- Passage of any bill returned from the other house with changes
- Conference committee reports
- Joint resolutions that go to the voters as constitutional amendments

For legislators to be accountable to those who elect them, an easily obtainable record of the vote of every member of the Texas Legislature on every bill that comes before the House and Senate must be available.

Background

Texas is one of only nine states that does not routinely require recorded votes. Under current Texas Senate and House rules, a recorded vote only occurs when a legislator, supported by at least two colleagues, requests a record of the vote. Typically, this happens when an issue is especially contentious; otherwise the vast majority of decisions are cast by simple voice vote. A request for a recorded vote has occurred on only about half of all votes of the Legislature, leaving citizens in the dark about how their elected officials handled many critically important issues.

State legislators tout "accountability" of government at every opportunity, yet they are surprisingly unwilling to apply this concept to themselves. Many legislators are reluctant to require recorded votes because they fear it would be disruptive, time-consuming, and costly to implement. Yet states where recorded votes are routine do not report huge extra costs or inconvenience. Texas voters have the right to track their elected officials' decisions, especially in these times when partisanship has divided our legislatures and our citizenry sharply.

Impact

The public's business and neighborhood interests will be served when citizens are able to know how their elected representatives have voted. Voting records are more likely to reflect the interests of neighborhoods when lawmakers know they must be made public.

Contact: David Smith (972) 516-3849

**Texas Neighborhoods
Together**



**Legislative
Position Paper**

**Monitor implementation of
H.B. No. 216 of the 81st
Legislature.**

Support

***Regulation of Group Homes for Elderly and Disabled
Residents***

Recommendation

Monitor cities' development of regulations for group homes for elderly and disabled residents as permitted by H.B. 216 in order to determine whether additional legislation is needed.

Background

In the 1995 Supreme Court case *City of Edmonds v. Oxford House, Inc.*, the Court ruled that zoning ordinance provisions regulating single family dwellings were not exempt from the 1988 Fair Housing Act's prohibitions of discrimination against disabled persons. Since that decision many Texas jurisdictions have not regulated group homes for the elderly and disabled. This has resulted in a proliferation of unmonitored group homes in some Texas residential neighborhoods. Many of these homes do not have personnel with sufficient training and some hire employees with serious criminal histories. This has resulted in instances of residents being abused or robbed by group home personnel. Both the inadequate training of group home personnel and the hiring of employees with criminal backgrounds result in an excessive number of emergency calls to many of the homes. The frequent sirens at all hours of the day and night are very disruptive to the homes' neighbors.

H.B. No. 216, passed in 2009, required the Executive Commissioner of the State Health and Human Services Commission to develop and publish model standards for boarding home facilities not later than September 1, 2010. It further provides that counties and cities may adopt those standards. Counties and cities may require a person to obtain a permit to operate a boarding facility and require a permitted facility to comply with those standards.

Impact

Residents with disabilities will be protected from abuse and negative impacts of the boarding home facilities on surrounding neighborhoods will be reduced.



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P.O. Box 176
Austin TX 78767
www.ancweb.org

Dallas Homeowners League (DHL)

P.O. Box 600845
Dallas TX 75360-0845
(214) 549-2580
www.dallashomeownersleague.org

Garland Homeowners Coalition (GHC)

6510 Lynch Lane
Garland TX 75044
(972) 495-8513
athaswd@tx.rr.com

Greater Houston Neighborhood Associations (GHNA)

P.O. Box 690504
Houston TX 77269-0504
www.ghnatexas.org

Greater Lake Palestine Council (GLPC)

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Lake Conroe Communities Network (LCCN)

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North Dallas Neighborhood Alliance (NDNA)

PMB 163
18484 Preston Road #102
Dallas TX 75252
www.ndna_tx.org

North Fort Worth Alliance (NFWA)

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Plano Homeowners Council (PHC)

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