



CITY OF HOUSTON
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March 28, 2023

The Honorable DeWayne Burns
House Committee on Land and Resource Management
P.O. Box 2910
Austin, Texas 78768-2910

Dear Chairman Burns and Members of the Committee:

On behalf of the City of Houston, I write about concerns we have regarding House Bill 2789 and ask that this written testimony be included in the formal legislative record for H.B. 2789. The City of Houston and I thank the Committee and Chairman for the opportunity to comment regarding this proposed legislation.

My name is Damon A. Crenshaw. I am Chief of the Neighborhood Services Section of the City of Houston Legal Department. I testify with the City's full authority to speak on its behalf as part of my assigned duties and responsibilities.

The City of Houston opposes H.B. 2789 for the following reason:

I. H.B. 2789 PROHIBITS THE CITY OF HOUSTON'S ABILITY TO REGULATE BUILDING IN ITS JURISDICTION ACCORDING TO ITS RESIDENTS BY AND THROUGH THEIR REPRESENTATIVES

H.B. 2789 proposes to add Chapter 247 to the Local Government Code to limit local governments from regulating accessory dwelling units ("ADUs"). The City of Houston does not have zoning so the ability to adopt building code provisions to regulate buildings in the City of Houston is particularly important for the City of Houston. While Section 247.003 allows political subdivisions some ability to regulate, the allowances are too limited. For example, H.B. 2789 would prohibit the City of Houston from requiring off-street parking and limiting ADUs to 900 square feet. The City of Houston opposes this bill as it limits the City's ability to regulate for concerns particular to Houston.

The Honorable DeWayne Burns

March 29, 2023

Page 2

Additionally, the City of Houston has concerns about H.B. 2789 for the following reasons:

II. AS WORDED, H.B. 2789 MAY PROHIBIT THE CITY OF HOUSTON'S ABILITY TO ENFORCE DEED RESTRICTIONS ON BEHALF OF COMMUNITIES WHICH RELY ON THE CITY OF HOUSTON FOR ENFORCEMENT

H.B. 2789 proposes to add Chapter 247 to the Local Government Code to limit local governments from regulating accessory dwelling units ("ADUs"). Proposed Sec. 247.002 may prohibit the City of Houston from adopting or *enforcing* an order, ordinance, or *other measure* which imposes restrictions on ADUs (emphasis added). This broad language appears to prohibit the City of Houston from enforcing deed restrictions related to the prohibitions listed in Sec. 247.002.

The City of Houston does not have zoning. To address concerns about that status, the Texas Legislature enabled the City of Houston to enforce deed restrictions in limited circumstances. Many neighborhoods in Houston - economically disadvantaged neighborhoods in particular - rely on the City of Houston to enforce deed restrictions in those circumstances. One circumstance in which the Legislature enabled the City of Houston to act - involving the number and types of structures on a property - directly relates to ADUs.

Deed restrictions are created under Texas statutes and common law by developers and/or residents of subdivisions. They create deed restrictions to address the nature of the subdivisions they develop or in which they live. The developers and citizens are in the best position to tailor deed restrictions to meet their desires. Most subdivisions opt to limit the number of residences on a lot in the subdivision. Many would not allow ADUs. That is their choice under Texas law. In Houston, these deed restrictions are *other measures* the City of Houston can *enforce* to meet the needs of citizens in those subdivisions.

Section 247.005 notes the proposed chapter does not prohibit applicability of deed restrictions to ADUs. This provision shows intent of the bill to continue to allow deed restriction enforcement regarding ADUs. The City of Houston agrees with such measure. As worded, however, H.B. 2789 is not clear that the City of Houston, as a political subdivision enforcing other measures (see Sec. 247.002) would still be able to enforce deed restrictions regarding ADUs. In the event the Committee intends to move the bill forward, the City of Houston, therefore requests amendment to make clear that the City of Houston may continue to enforce under statutes in place for decades.

Attached is a copy of the bill with amending language to address this concern.

For these reasons, the City of Houston respectfully notes opposition and concerns about H.B. 2789.

The Honorable DeWayne Burns
March 29, 2023
Page 3

Sincerely yours,

/s/ Damon A. Crenshaw _____

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