



CITY OF HOUSTON
Legal Department

Sylvester Turner
Mayor

Arturo G. Michel
City Attorney
Legal Department
P.O. Box 368
Houston, Texas 77001-0368
City Hall Annex
900 Bagby, 4th Floor
Houston, Texas 77002

832.393.6491 - Telephone
832.393.6259 - Facsimile
www.houstontx.gov

March 31, 2023

The Honorable Paul Bettencourt
Senate Committee on Local Government
P.O. Box 12068
Austin, Texas 78711

Dear Chairman Bettencourt and Members of the Committee:

On behalf of the City of Houston, I write about concerns we have regarding Senate Bill 1412 and ask that this written testimony be included in the formal legislative record for S.B. 1412. 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 S.B. 1412 for the following reasons:

I. S.B. 1412 LIMITS THE CITY OF HOUSTON'S ABILITY TO REGULATE BUILDINGS IN ITS JURISDICTION

S.B. 1412 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 and the ability to adopt 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, S.B. 1412 would prohibit the City of Houston from requiring off-street parking and limiting ADUs to 900 square feet. Parking within a city is a local matter best left to the local authorities. The City of Houston opposes this bill as it limits the City's ability to regulate for concerns particular to Houston.

Council Members: Amy Peck Tarsha Jackson Abbie Kamin Carolyn Evans-Shabazz Dave Martin Tiffany Thomas Greg Travis Karla Cisneros Robert Gallegos Edward Pollard Martha Castex-Tatum Mike Knox David W. Robinson Michael Kubosh Letitia Plummer Sallie Alcorn

Controller: Chris Brown

II. S.B. 1412 ENABLES ONE STATE OFFICIAL TO UNILATERALLY IMPOSE SIGNIFICANT PENALTIES

Should the City of Houston run afoul of this new chapter, S.B. 1412 enables the attorney general to impose significant penalties. The penalty is a strict revenue cap. There are no requirements that the penalty be proportional to the violation or for any review of the attorney general's action. The City of Houston strongly opposes these provisions.

Additionally, the City of Houston has concerns about S.B. 1412 for the following reasons:

III. AS WORDED, S.B. 1412 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

S.B. 1412 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.

As noted above, 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, S.B. 1412 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 deed restrictions as it has done, pursuant to statutes in place for decades.

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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 S.B. 1412.

Sincerely yours,

/s/Damon A. Crenshaw _____

Damon A. Crenshaw

Chief, Neighborhood Services Section

City of Houston Legal Department

900 Bagby Street, 4th Floor

Houston, Texas 77002

Damon.Crenshaw@houstontx.gov

832.393.6322