

AN ACT

relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.012 to read as follows:

Sec. 209.012. RESTRICTIVE COVENANTS GRANTING EASEMENTS TO CERTAIN PROPERTY OWNERS' ASSOCIATIONS. (a) A property owners' association may not amend a dedicatory instrument to grant the property owners' association an easement through or over an owner's lot without the consent of the owner.

(b) This section does not prohibit a property owners' association from adopting or enforcing a restriction in a dedicatory instrument that allows the property owners' association to access an owner's lot to remedy a violation of the dedicatory instrument.

SECTION 2. (a) Chapter 209, Property Code, is amended by adding Section 209.013 to read as follows:

Sec. 209.013. AUTHORITY OF ASSOCIATION TO AMEND DEDICATORY INSTRUMENT. (a) A dedicatory instrument created by a developer of a residential subdivision or by a property owners' association in which the developer has a majority of the voting rights or that the developer otherwise controls under the terms of the dedicatory instrument may not be amended during the period between the time the

1 developer loses the majority of the voting rights or other form of
2 control of the property owners' association and the time a new board
3 of directors of the association assumes office following the loss
4 of the majority of the voting rights or other form of control.

5 (b) A provision in a dedicatory instrument that violates
6 this section is void and unenforceable.

7 (b) Except as specifically provided by a dedicatory
8 instrument in a provision that existed before the effective date of
9 this Act, the change in law made by this section applies to a
10 dedicatory instrument created before, on, or after the effective
11 date of this Act.

12 SECTION 3. Section 209.012, Property Code, as added by this
13 Act, applies only to an easement granted by a dedicatory instrument
14 on or after the effective date of this Act. An easement granted by a
15 dedicatory instrument before the effective date of this Act is
16 governed by the law in effect immediately before the effective date
17 of this Act, and the former law is continued in effect for that
18 purpose.

19 SECTION 4. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 2402 was passed by the House on May 10, 2007, by the following vote: Yeas 137, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2402 on May 25, 2007, by the following vote: Yeas 134, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2402 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor