

1-1 By: Olivo, et al. (Senate Sponsor - Janek) H.B. No. 3232
1-2 (In the Senate - Received from the House May 8, 2007;
1-3 May 15, 2007, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 19, 2007, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 4,
1-6 Nays 0; May 19, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3232 By: Nichols

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain subdivision golf courses.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter A, Chapter 212, Local Government
1-13 Code, is amended by adding Section 212.0155 to read as follows:

1-14 Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS
1-15 AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to
1-16 land located wholly or partly in the corporate boundaries of a
1-17 municipality if the municipality:

1-18 (1) has a population of more than 50,000; and

1-19 (2) is located wholly or partly in a county:

1-20 (A) with a population of more than three million;

1-21 or

1-22 (B) with a population of more than 275,000 that
1-23 is adjacent to a county with a population of more than three
1-24 million.

1-25 (b) In this section:

1-26 (1) "Management certificate" means a certificate
1-27 described by Section 209.004, Property Code.

1-28 (2) "New plat" means a development plat, replat,
1-29 amending plat, or vacating plat that would change the existing plat
1-30 or the current use of the land that is the subject of the new plat.

1-31 (3) "Property owners' association" and "restrictive
1-32 covenant" have the meanings assigned by Section 202.001, Property
1-33 Code.

1-34 (4) "Restrictions," "subdivision," and "owner" have
1-35 the meanings assigned by Section 201.003, Property Code.

1-36 (5) "Subdivision golf course" means an area of land:

1-37 (A) that was originally developed as a golf
1-38 course or a country club within a common scheme of development for a
1-39 predominantly residential single-family development project;

1-40 (B) that was at any time in the seven years
1-41 preceding the date on which a new plat for the land is filed:

1-42 (i) used as a golf course or a country club;

1-43 (ii) zoned as a community facility;

1-44 (iii) benefited from restrictive covenants
1-45 on adjoining homeowners; or

1-46 (iv) designated on a recorded plat as a golf
1-47 course or a country club; and

1-48 (C) that is not separated entirely from the
1-49 predominantly residential single-family development project by a
1-50 public street.

1-51 (c) In addition to any other requirement of this chapter, a
1-52 new plat must conform to the requirements of this section if any of
1-53 the area subject to the new plat is a subdivision golf course. The
1-54 exception in Section 212.004(a) excluding divisions of land into
1-55 parts greater than five acres for platting requirements does not
1-56 apply to a subdivision golf course.

1-57 (d) A new plat that is subject to this section may not be
1-58 approved until each municipal authority reviewing the new plat
1-59 conducts a public hearing on the matter at which the parties in
1-60 interest and citizens have an adequate opportunity to be heard,
1-61 present evidence, and submit statements or petitions for
1-62 consideration by the municipal authority. The number, location,
1-63 and procedure for the public hearings may be designated by the

2-1 municipal authority for a particular hearing. The municipal
 2-2 authority may abate, continue, or reschedule, as the municipal
 2-3 authority considers appropriate, any public hearing in order to
 2-4 receive a full and complete record on which to make a decision. If
 2-5 the new plat would otherwise be administratively approved, the
 2-6 municipal planning commission is the approving body for the
 2-7 purposes of this section.

2-8 (e) The municipal authority may not approve the new plat
 2-9 without adequate consideration of testimony and the record from the
 2-10 public hearings and making the findings required by Subsection (k).
 2-11 Not later than the 30th day after the date on which all proceedings
 2-12 necessary for the public hearings have concluded, the municipal
 2-13 authority shall take action on the application for the new plat.
 2-14 Sections 212.009(a) and (b) do not apply to the approval of plats
 2-15 under this section.

2-16 (f) The municipality may provide notice of the initial
 2-17 hearing required by Subsection (d) only after the requirements of
 2-18 Subsections (m) and (n) are met. The notice shall be given before
 2-19 the 15th day before the date of the hearing by:

2-20 (1) publishing notice in an official newspaper or a
 2-21 newspaper of general circulation in the county in which the
 2-22 municipality is located;

2-23 (2) providing written notice, with a copy of this
 2-24 section attached, by the municipal authority responsible for
 2-25 approving plats to:

2-26 (A) each property owners' association for each
 2-27 neighborhood benefited by the subdivision golf course, as indicated
 2-28 in the most recently filed management certificates; and

2-29 (B) the owners of lots that are within 200 feet of
 2-30 the area subject to the new plat, as indicated:

2-31 (i) on the most recently approved municipal
 2-32 tax roll; and

2-33 (ii) in the most recent online records of
 2-34 the central appraisal district of the county in which the lots are
 2-35 located; and

2-36 (3) any other manner determined by the municipal
 2-37 authority to be necessary to ensure that full and fair notice is
 2-38 provided to all owners of residential single-family lots in the
 2-39 general vicinity of the subdivision golf course.

2-40 (g) The written notice required by Subsection (f)(2) may be
 2-41 delivered by depositing the notice, properly addressed with postage
 2-42 prepaid, in the United States mail.

2-43 (h) The cost of providing the notices under Subsection (f)
 2-44 shall be paid by the plat applicant.

2-45 (i) If written instruments protesting the proposed new plat
 2-46 are signed by the owners of at least 20 percent of the area of the
 2-47 lots or land immediately adjacent to the area covered by a proposed
 2-48 new plat and extending 200 feet from that area and are filed with
 2-49 the municipal planning commission or the municipality's governing
 2-50 body before the conclusion of the public hearings, the proposed new
 2-51 plat must receive, to be approved, the affirmative vote of at least
 2-52 three-fifths of the members of the municipal planning commission or
 2-53 governing body.

2-54 (j) In computing the percentage of land area under
 2-55 Subsection (i), the area of streets and alleys is included.

2-56 (k) The municipal planning commission or the municipality's
 2-57 governing body may not approve a new plat under this section unless
 2-58 it determines that:

2-59 (1) there is adequate existing or planned
 2-60 infrastructure to support the future development of the subdivision
 2-61 golf course;

2-62 (2) based on existing or planned facilities, the
 2-63 development of the subdivision golf course will not have a
 2-64 materially adverse effect on:

2-65 (A) traffic, parking, drainage, water, sewer, or
 2-66 other utilities;

2-67 (B) the health, safety, or general welfare of
 2-68 persons in the municipality; or

2-69 (C) safe, orderly, and healthful development of

3-1 the municipality;
3-2 (3) the development of the subdivision golf course
3-3 will not have a materially adverse effect on existing single-family
3-4 property values;

3-5 (4) the new plat is consistent with all applicable
3-6 land use regulations and restrictive covenants and the
3-7 municipality's land use policies as described by the municipality's
3-8 comprehensive plan or other appropriate public policy documents;
3-9 and

3-10 (5) if any portion of a previous plat reflected a
3-11 restriction on the subdivision golf course whether:

3-12 (A) that restriction is an implied covenant or
3-13 easement benefiting adjacent residential properties; or

3-14 (B) the restriction, covenant, or easement has
3-15 been legally released or has expired.

3-16 (l) The municipal authority may adopt rules to govern the
3-17 platting of a subdivision golf course that do not conflict with this
3-18 section, including rules that require more detailed information
3-19 than is required by Subsection (n) for plans for development and new
3-20 plat applications.

3-21 (m) The application for a new plat under this section is not
3-22 complete and may not be submitted for review for administrative
3-23 completeness unless the tax certificates required by Section
3-24 12.002(e), Property Code, are attached, notwithstanding that the
3-25 application is for a type of plat other than a plat specified in
3-26 that section.

3-27 (n) A plan for development or a new plat application for a
3-28 subdivision golf course is not considered to provide fair notice of
3-29 the project and nature of the permit sought unless it contains the
3-30 following information, complete in all material respects:

3-31 (1) street layout;

3-32 (2) lot and block layout;

3-33 (3) number of residential units;

3-34 (4) location of nonresidential development, by type of
3-35 development;

3-36 (5) drainage, detention, and retention plans;

3-37 (6) screening plan for adjacent residential
3-38 properties, including landscaping or fencing; and

3-39 (7) an analysis of the effect of the project on values
3-40 in the adjacent residential neighborhoods.

3-41 (o) A municipal authority with authority over platting may
3-42 require as a condition for approval of a plat for a golf course
3-43 that:

3-44 (1) the area be platted as a restricted reserve for the
3-45 proposed use; and

3-46 (2) the plat be incorporated into the plat for any
3-47 adjacent residential lots.

3-48 (p) An owner of a lot that is within 200 feet of a
3-49 subdivision golf course may seek declaratory or injunctive relief
3-50 from a district court to enforce the provisions in this section.

3-51 SECTION 2. Section 82.051, Property Code, is amended by
3-52 adding Subsection (f) to read as follows:

3-53 (f) This chapter does not permit development of a
3-54 subdivision golf course, as defined by Section 212.0155(b), Local
3-55 Government Code, without a plat if the plat is otherwise required by
3-56 applicable law. A municipality may require as a condition to the
3-57 development of a previously platted or unplatted subdivision golf
3-58 course that the subdivision golf course be platted or replatted.

3-59 SECTION 3. (a) Notwithstanding Chapter 245, Local
3-60 Government Code, the change in law made by Section 212.0155, Local
3-61 Government Code, as added by this Act, applies to approval of a plat
3-62 filed on or after the effective date of this Act or before the
3-63 effective date of this Act if the approval of a plat filed before
3-64 the effective date of this Act is not final. A plat filed and
3-65 approved before the effective date of this Act is governed by the
3-66 law in effect immediately before that date, and that law is
3-67 continued in effect for that purpose.

3-68 (b) The change in law made by Section 212.0155, Local
3-69 Government Code, as added by this Act, does not apply to a lawsuit

4-1 filed before the effective date of this Act. That section applies
4-2 to land that is the subject of a lawsuit filed before the effective
4-3 date of this Act on the date the decision in that lawsuit becomes
4-4 final or the suit is otherwise terminated.

4-5 SECTION 4. This Act takes effect immediately if it receives
4-6 a vote of two-thirds of all the members elected to each house, as
4-7 provided by Section 39, Article III, Texas Constitution. If this
4-8 Act does not receive the vote necessary for immediate effect, this
4-9 Act takes effect on the 91st day after the last day of the
4-10 legislative session.

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