

By: Menendez

H.B. No. 44

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of a property owners' association to  
3 regulate the use of certain lots for residential purposes.

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

5 SECTION 1. Chapter 209, Property Code, is amended by adding  
6 Section 209.0056 to read as follows:

7 Sec. 209.0056. REGULATION OF LAND USE: RESIDENTIAL PURPOSE.

8 (a) In this section:

9 (1) "Adjacent lot" means:

10 (A) a lot that is contiguous to another lot that  
11 fronts on the same street;

12 (B) with respect to a corner lot, a lot that is  
13 contiguous to the corner lot either by a side or back property line;

14 or

15 (C) if permitted by the dedicatory instrument,  
16 any lot that is contiguous to another lot at the back property line.

17 (2) "Residential purpose" with respect to the use of a  
18 lot:

19 (A) means the location on the lot of any  
20 building, structure, or other improvement customarily appurtenant  
21 to a residence, as opposed to use for a business or commercial  
22 purpose; and

23 (B) includes the location on the lot of a garage,  
24 sidewalk, driveway, parking area, children's swing or playscape,

1 fence, septic system, swimming pool, utility line, or water well  
2 and, if otherwise specifically permitted by the provisions of the  
3 dedicatory instrument, the parking or storage of a recreational  
4 vehicle.

5 (b) A property owners' association may not adopt or enforce  
6 a provision in a dedicatory instrument that prohibits or restricts  
7 the owner of a lot on which a residence is located from using for  
8 residential purposes an adjacent lot owned by the property owner.

9 (c) An owner must obtain the approval of the property  
10 owners' association or, if applicable, an architectural committee  
11 established by the association, based on criteria prescribed by the  
12 dedicatory instruments specific to the use of a lot for residential  
13 purposes, including reasonable restrictions regarding size,  
14 location, shielding, and aesthetics of the residential purpose,  
15 before the owner begins the construction, placement, or erection of  
16 a building, structure, or other improvement for the residential  
17 purpose on an adjacent lot.

18 (d) An owner who elects to use an adjacent lot for  
19 residential purposes under this section shall, on the sale or  
20 transfer of the lot containing the residence:

21 (1) include the adjacent lot in the sales agreement  
22 and transfer the lot to the new owner under the same dedicatory  
23 conditions; or

24 (2) restore the adjacent lot to the original condition  
25 before the addition of the improvements allowed under this section  
26 to the extent that the lot would again be suitable for the  
27 construction of a separate residence as originally platted and

1 provided for in the conveyance to the owner.

2 (e) An owner may sell the adjacent lot separately only for  
3 the purpose of the construction of a new residence that complies  
4 with existing requirements in the dedicatory instrument unless the  
5 lot has been restored as described by Subsection (d)(2).

6 (f) A provision in a dedicatory instrument that violates  
7 this section is void.

8 SECTION 2. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2011.