

By: Menendez

H.B. No. 35

Substitute the following for H.B. No. 35:

By: Oliveira

C.S.H.B. No. 35

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 209.015 to read as follows:

7 Sec. 209.015. 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 by either a side property line or a
14 back property line; 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 dedicatory
3 instrument, the parking or storage of a recreational vehicle.

4 (b) Except as provided by this section, a property owners'
5 association may not adopt or enforce a provision in a dedicatory
6 instrument that prohibits or restricts the owner of a lot on which a
7 residence is located from using for residential purposes an
8 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 or the association's dedicatory
12 instruments, based on criteria prescribed by the dedicatory
13 instruments specific to the use of a lot for residential purposes,
14 including reasonable restrictions regarding size, location,
15 shielding, and aesthetics of the residential purpose, before the
16 owner begins the construction, placement, or erection of a
17 building, structure, or other improvement for the residential
18 purpose on an adjacent lot.

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

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

25 (2) restore the adjacent lot to the original condition
26 before the addition of the improvements allowed under this section
27 to the extent that the lot would again be suitable for the

1 construction of a separate residence as originally platted and
2 provided for in the conveyance to the owner.

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

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

9 SECTION 2. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2013.