

By: Bettencourt, Kolthorst

S.B. No. 2639

A BILL TO BE ENTITLED

AN ACT

relating to the designation of a property as a historic landmark and the inclusion of a property in a historic district or similar preservation district by certain municipalities.

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

SECTION 1. Sections 211.0165(a) and (d), Local Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b) and subject to Section 211.01651, a municipality that has established a process for designating places or areas of historical, cultural, or architectural importance and significance through the adoption of zoning regulations or zoning district boundaries may not designate a property as a local historic landmark or include a property within the boundaries of a local historic district unless:

(1) the owner of the property consents to the designation or inclusion; or

(2) if the owner does not consent, the designation or inclusion of the owner's property is approved by a three-fourths vote of:

(A) the governing body of the municipality; and

(B) the zoning, planning, or historical commission of the municipality, if any.

(d) The historic designation impact statement must include ~~[lists of the]~~:

1 (1) the regulations that may be applied to any
2 structure on the property after the designation;

3 (2) the procedures for the designation;

4 (3) the tax benefits that may be applied to the
5 property after the designation; ~~and~~

6 (4) the rehabilitation or repair programs that the
7 municipality offers for a property designated as historic;

8 (5) the code violations that would need to be resolved
9 to bring the property into compliance if the property was
10 designated as historic or included in a local historic district;

11 (6) an estimate prepared by an independent appraiser,
12 adjuster, or construction expert of the cost to repair or restore
13 the property if designated as historic; and

14 (7) an appraisal prepared by an independent appraiser
15 of the value of the property:

16 (A) if the proposed historic designation or
17 inclusion in a local historic district is not applied to the
18 property; and

19 (B) if the property is designated as a local
20 historic landmark or included in a local historic district.

21 SECTION 2. Subchapter [A](#), Chapter [211](#), Local Government
22 Code, is amended by adding Section 211.01651 to read as follows:

23 Sec. 211.01651. DESIGNATION OF HISTORIC LANDMARK OR
24 DISTRICT IN CERTAIN MUNICIPALITIES. (a) This section applies only
25 to a property located in a municipality with a population of 950,000
26 or more.

27 (b) A municipality may not designate a property as a local

1 historic landmark or include a property within the boundaries of a
2 local historic district without the consent of the owner of the
3 property unless the municipality complies with:

4 (1) Section 211.0165; and

5 (2) the procedures in this section for assessing
6 damages and determining compensation to the property owner.

7 (c) If the governing body of a municipality approves the
8 designation of a property as a local historic landmark or inclusion
9 of the property within the boundaries of a local historic district
10 as provided by Section 211.0165(a) and the owner of the property
11 does not consent, the municipality must make a bona fide offer to
12 compensate the property owner for damages attributable to the
13 designation or inclusion. A municipality has made a bona fide offer
14 if the municipality:

15 (1) provides to the property owner in writing:

16 (A) an initial offer of compensation for damages;

17 and

18 (B) a final offer of compensation for damages, on
19 or after the 30th day after the date the municipality makes a
20 written initial offer to the property owner; and

21 (2) provides the property owner with at least 14 days
22 to respond to the final offer and the property owner does not agree
23 to the terms of the final offer within that period.

24 (c-1) An initial or final offer of compensation for damages
25 provided by a municipality under Subsection (c)(1) may not be less
26 than the greater of:

27 (1) the estimated cost to repair or restore the

1 property as determined under Section 211.0165(d)(6); or

2 (2) the appraised value of the property determined
3 under Section 211.0165(d)(7)(A) minus the appraised value of the
4 property determined under Section 211.0165(d)(7)(B).

5 (d) If a municipality is unable to agree with a property
6 owner on the amount of damages under Subsection (c), the
7 municipality may bring an action to authorize the municipality to
8 designate a property as a local historic landmark or include a
9 property within the boundaries of a local historic district without
10 the consent of the property owner by filing in the proper court a
11 petition that includes:

12 (1) a description of the property;

13 (2) the name of the property owner if the owner is
14 known; and

15 (3) a statement:

16 (A) specifying the designation or inclusion that
17 the municipality seeks to authorize;

18 (B) that the municipality and the property owner
19 are unable to agree on the damages; and

20 (C) that the municipality made a bona fide offer
21 to compensate the property owner for damages as provided by
22 Subsection (c).

23 (e) A municipality that files a petition under Subsection
24 (d) shall provide a copy of the petition to the property owner by
25 certified mail, return receipt requested, and first class mail. If
26 the municipality has received written notice that the property
27 owner is represented by counsel, the municipality shall provide a

1 copy of the petition to the property owner's attorney by first class
2 mail, commercial delivery service, or e-mail.

3 (f) The court in which a petition is filed under this
4 section not later than the 30th day after the date the petition is
5 filed shall appoint three special commissioners, as provided by
6 Section 21.014, Property Code, to assess the damages of the owner of
7 the property that the municipality seeks to designate as a local
8 historic landmark or include within the boundaries of a local
9 historic district.

10 (g) The special commissioners appointed under Subsection
11 (f) shall:

12 (1) as soon as practicable but not later than the 20th
13 day after the date the special commissioners are appointed hold a
14 hearing to assess damages; and

15 (2) provide written notice of the hearing to the
16 municipality and the property owner as provided by Section 21.016,
17 Property Code.

18 (h) A municipality or property owner may:

19 (1) appeal the findings from the special commissioners
20 as provided by Section 21.018, Property Code; or

21 (2) move to dismiss the proceedings in an action filed
22 under Subsection (d), as provided by Section 21.019, Property Code.

23 (i) As the basis for assessing actual damages to a property
24 owner from a designation of a property as a local historic landmark
25 or inclusion of a property within the boundaries of a local historic
26 district, the special commissioners shall admit evidence on:

27 (1) the value of the property;

1 (2) the injury to the property owner;

2 (3) the benefit to the property owner's property;

3 (4) the use of the property for the purpose of the
4 designation or inclusion;

5 (5) the cost to repair the property; and

6 (6) any diminution in the value of the property due to
7 the designation or inclusion, including from restrictions on the
8 property owner's ability to demolish or develop the property.

9 (j) The special commissioners shall assess damages in a
10 proceeding under this section according to the evidence presented
11 at the hearing and as provided by Section 21.042, Property Code, as
12 applicable.

13 (k) The special commissioners in a proceeding under this
14 section shall adjudge the costs of the proceeding against a party as
15 follows:

16 (1) if the commissioners award greater damages than
17 the municipality offered to pay or a court on appeal awards greater
18 damages than the commissioners awarded, the municipality shall pay
19 all costs, including attorney's fees, other professional fees, and
20 court costs; or

21 (2) if the commissioners' award or the court's
22 determination of the damages is less than or equal to the amount the
23 municipality offered before proceedings began, the property owner
24 shall pay court costs.

25 (l) A municipality shall pay the initial cost of serving a
26 property owner with notice of a condemnation proceeding. If the
27 property owner is ordered to pay court costs, the municipality may

1 recover the expense of notice from the property owner.

2 (m) If a court hearing a suit under this section determines
3 that a municipality did not make a bona fide offer to compensate the
4 property owner for damages as required by Subsection (c), the court
5 shall abate the suit, order the municipality to make a bona fide
6 offer, and order the municipality to pay:

7 (1) all costs as provided by Subsection (k); and

8 (2) any reasonable attorney's fees and other
9 professional fees incurred by the property owner that are directly
10 related to the violation.

11 (n) The special commissioners in a proceeding under this
12 section shall file with the court a written statement of damages and
13 costs as provided by Section [21.048](#), Property Code.

14 (o) The court in a proceeding under this section shall:

15 (1) send notice of a decision by the special
16 commissioners to the parties as provided by Section [21.049](#),
17 Property Code; and

18 (2) if no party files timely objections to the
19 findings of the special commissioners, adopt the commissioners'
20 findings as the judgment of the court, record the judgment in the
21 minutes of the court, and issue the process necessary to:

22 (A) enforce any judgment of damages awarded to
23 the property owner; and

24 (B) authorize the municipality to designate the
25 property owner's property as a local historic landmark or include
26 the property within the boundaries of a local historic district
27 under Section [211.0165](#).

1 SECTION 3. (a) Except as provided by Subsection (b) of
2 this section, the changes in law made by this Act apply only to a
3 designation of a property as a local historic landmark or inclusion
4 of a property within the boundaries of a local historic district
5 that is approved by the governing body of a municipality on or after
6 the effective date of this Act. A designation or inclusion approved
7 before the effective date of this Act is governed by the law as it
8 existed immediately before the effective date of this Act, and that
9 law is continued in effect for that purpose.

10 (b) If a property owner filed an action to challenge the
11 designation of the property owner's property as a local historic
12 landmark or the inclusion of the property within the boundaries of a
13 local historic district before the effective date of this Act and
14 the action is pending on the effective date of this Act, the
15 property owner may elect to dismiss the action and seek relief as
16 provided by Section 211.01651, Local Government Code, as added by
17 this Act.

18 SECTION 4. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2025.