



TEXAS MUNICIPAL LEAGUE
Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

March 29, 2023

The Honorable DeWayne Burns
Chairman, House Land and Resource Management Committee
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Burns:

I am writing on behalf of the Texas Municipal League to express our opposition to **House Bill 2789** by **Representative Holland**. As filed, H.B. 2789 would, among other things, generally restrict a city from adopting or enforcing regulations that prohibit an owner from building, selling, or renting an accessory dwelling unit (ADU), or require owner occupancy of the primary dwelling unit of a lot with an ADU for any lot zoned for single-family or duplex uses. In other words, the bill would authorize ADUs by right in most city neighborhoods with only minimal oversight by the city.

H.B. 2789 capitalizes on a growing trend at all levels of government supporting the development of affordable housing through the building of ADUs. In May 2022, the Biden Administration announced a Housing Supply Action Plan that promotes the construction and renovation of ADUs in cities across the country. In recent years Oregon, California, and Vermont have enacted similar state-level legislation limiting local involvement in ADU development. H.B. 2789, just like legislation in these states, would bypass the city-level dialogue on land use matters in favor of uniform regulation at the state level that lacks malleability based on community considerations. City government is best positioned to promote local goals on housing affordability while balancing those with neighborhood-level concerns.

Texas cities are not immune from the trend towards more ADUs. Many have reformed their land use regulations in recent years to promote ADU development after significant public buy-in. These local ADU reforms would generally expand development of ADUs, but still allow for some oversight to ensure neighborhood compatibility on things like parking, sale or rental of ADUs, setbacks and proximity to other homes, owner occupancy of the primary dwelling unit, and size limitations. H.B. 2789 would eliminate local flexibility on these topics in every city across the state. Further, the bill as drafted would preempt local ordinances on short term rentals as those ordinances apply to ADUs. This would have the ironic impact of limiting the use of ADUs as permanent housing options, since investors would purchase ADUs for use as short term rentals to be occupied by tourists instead of city residents.

H.B. 2789 would also authorize the attorney general to investigate a suspected violation of the bill by a city and impose a strict revenue cap on any city determined to have run afoul of the bill's requirements. The League strongly opposes the ability of one state official to unilaterally restrict city revenue. In this case, doing so would limit a city's ability to provide the services and infrastructure to support the increased residential density promoted by the bill.

Instead of invalidating local land use policies at the state level and imposing a strict revenue cap on cities who fail to comply with the new state statutory scheme, Texas cities and the state should work together to promote ADU development in a way that accounts for unique neighborhood considerations. The League is willing to work with Representative Holland and the committee on legislation that would preserve local input on local development issues.

For the reasons stated above, the League opposes H.B. 2789.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monty Wynn', with a stylized flourish at the end.

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League