

- SUBJECT:** Prohibiting cities from establishing a sales price for private houses and lots
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 5 ayes — Blake, Escobar, Miller, Orr, Pickett
- 0 nays
- 4 absent — Mowery, Harper-Brown, R. Cook, Leibowitz
- WITNESSES:** For — Harry Savio, Home Builders Association of Greater Austin
(*Registered, but did not testify:* Craig Chick, Texas Association of Realtors; Michele Molter, Texas Apartment Association; Scott Norman, Texas Association of Builders)
- Against — Angela Baker, Austin Interfaith; John Henneberger, Texas Low Income Housing Information Service; Ben Luckens, Texas Chapter American Planning Association; Walter Moreau, Foundation Communities; Elizabeth Mueller; Reymundo Oranus, Texas Association of Community Development Corporations; Karen Paup, Texas Low Income Housing Information Service; Jim Walker; (*Registered, but did not testify:* Ed Gifford; Mary Gifford; Matt Hull, Texas Association of Community Development Corporations; Susan Moffat; Gretchen Olson; Margaret Piper; Brad Rockwell; Kathleen Tyler; Lourdes Zamarron, Austin Interfaith
- On — Frank Turner, City of Plano
- BACKGROUND:** Under current law cities have the capacity to lower sales prices on certain privately produced homes. Cities trying to generate more affordable housing may adopt inclusionary zoning, the mandatory sale of homes at or below fair market price. Through ordinances, regulation, or development permitting, a municipality may incorporate inclusionary zoning into its land use and housing regulations.
- DIGEST:** CSHB 2266 would amend Local Government Code, ch. 214, to prohibit sales price controls for privately produced housing units or residential building lots. It would not prevent municipalities from implementing affordable housing incentive programs for developers.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 2266 would help protect the integrity of the housing market by prohibiting municipalities from determining housing prices. The general housing market is negatively affected when new housing developments set aside a percentage of new homes at certain prices. This causes the housing supply to decrease and the price of homes to increase. Also, mandatory price control programs require complex regulatory agreements with strict rules for compliance that can hinder housing production.

The bill would not preclude incentive programs to increase home ownership or affordable housing, nor would it prohibit voluntary price controls. Voluntary programs have proven to be useful tools in providing affordable housing. For example, the City of Austin's Smart Housing Program, which in exchange for providing permitting incentives and waiving development fees for developers, offers affordable housing to families at or below 80 percent of Austin's median family income.

Cities set prices for homes to generate affordable housing. The goal is to increase home ownership, which builds equity, increases tax advantages, and vests individuals into their communities. However, the best way to increase home ownership is to build more new homes for fair market prices. So-called inclusionary zoning, while well intentioned, exacerbates low home ownership rates.

Research shows that inclusionary zoning produces only a small number of affordable homes. For example, a recent study on inclusionary zoning in California showed that the average city generated about eight units per year that were below market value. When a city wants to lower home prices, it typically offers developers incentives to compensate for the reduced prices. The incentives rarely outweigh the associated loss and therefore low numbers of units are generated.

Inclusionary zoning deters development and creates an unfriendly environment for developers, one in which less land is sold and fewer houses are produced. A reduced supply of new homes constrains housing, causes prices to increase, and creates a housing shortage. Fewer homes are added to government tax rolls, reducing potential government revenue.

OPPONENTS
SAY:

CSHB 2266 is a premature measure. While Texas is faced with an affordable housing crisis, ranking 45th in home ownership rates in the United States, there are no mandatory inclusionary zoning programs in the state. Most affordable housing advocates believe inclusionary zoning would increase home ownership but have not planned such programs for the immediate future. Elected officials should be free to design programs they believe will best meet public needs. The Legislature's role is not to preempt planning and solve problems that do not exist, but rather to protect local authority and provide adequate tools for local solutions.

Prohibiting set sales prices for any housing units and residential lots could hinder city real estate programs. Dallas has a Land Bank Program in which the city sells vacant lots, which it initially receives because of property tax foreclosures, at below market prices for affordable housing development.

Though no mandatory inclusionary zoning plan exists in the state, the bill would prematurely prohibit one. While some research blames inclusionary zoning for causing housing shortages, other research shows it promotes economic integration, the goal of which is to reduce housing segregation. Neighborhood renewal projects are intended to benefit residents, clean up streets, improve public safety, generate jobs, and enhance community pride, but such benefits often gentrify neighborhoods. Native residents are priced out of their homes through rising property taxes. Inclusionary zoning is one way to counter gentrification.

Fostering integration of lower-income and market-rate housing deconcentrates poverty. Research shows the sale of homes below market price can give lower-income families access to better schools and job opportunities in less economically disadvantaged areas. Voluntary programs often are less predictable and lack sustaining authority.

The bill would not bar incentive programs but would make initiating them difficult. Mandatory programs can be cost-effective, and developers may benefit from incentive programs. Successful programs waive development fees for developers and build in density bonuses, which allow them to build more units than normally allowed by zoning laws. Instead of prohibiting mandatory programs, more effort should be concentrated on finding cost-effective incentives.

NOTES: The substitute deleted language prohibiting pricing regulations designated for sale to any particular class or group of purchaser defined by income or wealth.