AN ACT

relating to the authority of a property owners' association to
regulate the use of certain lots for residential purposes.

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

SECTION 1. Chapter 209, Property Code, is amended by adding
Section 209.015 to read as follows:

Sec. 209.015. REGULATION OF LAND USE: RESIDENTIAL PURPOSE.

(a) In this section:

(1) "Adjacent lot" means:

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

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

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

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

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

(B) includes the location on the lot of a garage, sidewalk, driveway, parking area, children's swing or playscape,
fence, septic system, swimming pool, utility line, or water well
and, if otherwise specifically permitted by the dedicatory
instrument, the parking or storage of a recreational vehicle.

(b) Except as provided by this section, a property owners' association may not adopt or enforce a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot owned by the property owner.

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

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

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

(2) restore the adjacent lot to the original condition before the addition of the improvements allowed under this section to the extent that the lot would again be suitable for the
construction of a separate residence as originally platted and
provided for in the conveyance to the owner.

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

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

SECTION 2. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2013.
H.B. No. 35

President of the Senate  Speaker of the House

I certify that H.B. No. 35 was passed by the House on April 11, 2013, by the following vote: Yeas 129, Nays 15, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 35 was passed by the Senate on May 20, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: ____________________________

Date

Governor