

By: Tepper

H.B. No. 2149

A BILL TO BE ENTITLED

AN ACT

relating to nonconforming land uses after the adoption of or change to a zoning regulation or boundary.

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

SECTION 1. The heading to Section 211.019, Local Government Code, is amended to read as follows:

Sec. 211.019. REQUIREMENT TO STOP NONCONFORMING LAND USE; REMEDY; AGREEMENT.

SECTION 2. Section 211.019, Local Government Code, is amended by amending Subsections (b), (d), (e), (g), (h), (i), and (l) and adding Subsections (b-1), (f-1), and (f-2) to read as follows:

(b) A person using a property in a manner considered to be a nonconforming use as a result of the adoption of or change to a zoning regulation or boundary may continue to use the property in the same manner unless required by a municipality to stop the nonconforming use of the property pursuant to an agreement under Subsection (b-1).

(b-1) A municipality that seeks to require a person to stop a nonconforming use of a property under Subsection (b) must enter into an agreement with the person before the municipality may require the person to stop the nonconforming use. A person may continue the nonconforming use of the property until the person and municipality enter into the agreement. An agreement under this

1 subsection must stipulate:

2 (1) the amount of the payment from the municipality to
3 the person as prescribed by Subsection (d)(1); or

4 (2) the period during which the person may continue
5 the nonconforming use of the property as prescribed by Subsection
6 (d)(2).

7 (d) If a municipality requires a property owner or lessee to
8 stop the nonconforming use of a property as described by Subsection
9 (b), the owner or lessee of the property is entitled to:

10 (1) payment from the municipality in an amount equal
11 to the sum of:

12 (A) the costs incurred by the owner or lessee of
13 the property that are directly attributable to ceasing the
14 nonconforming use of the property, including expenses related to
15 demolition, relocation, termination of a lease, or discharge of a
16 mortgage; and

17 (B) an amount equal to the greater of, as
18 determined by the municipality, the diminution in the market value
19 of the property, computed by subtracting the current market value
20 of the property after the imposition of a requirement to stop the
21 nonconforming use of the property from:

22 (i) the market value of the property on the
23 day before the date the notice was given under Section
24 [211.006\(a-1\)](#); or

25 (ii) the market value of the property on the
26 day before a person submits an application or request to the
27 municipality to require or the municipality otherwise requires a

1 person to stop using the property in a manner that is a
2 nonconforming use as described by Subsection (b); or

3 (2) continued nonconforming use of the property for a
4 period, as determined by the owner or lessee, sufficient for
5 [until] the owner or lessee to recover ~~[recovers]~~ the amount
6 determined under Subdivision (1) through the owner or lessee's
7 continued business activities according to generally accepted
8 accounting principles.

9 (e) Not later than the 10th day after the date a
10 municipality imposes a requirement to stop a nonconforming use of a
11 property under this section, the municipality shall give written
12 notice to each owner or lessee of the property, as indicated by the
13 most recently approved municipal tax roll, who is required to stop a
14 nonconforming use of the property:

15 (1) that the municipality seeks to stop the
16 nonconforming use of the property;

17 (2) of the ~~[requirement and of the]~~ remedies to which
18 an owner or lessee of the property is entitled ~~[to]~~ under Subsection
19 (d); and

20 (3) that the municipality is required to enter into an
21 agreement with the owner or lessee of the property for the purpose
22 of deciding which remedy under Subsection (d) the owner or lessee
23 will choose.

24 (f-1) In the event of a conflict in the choice of remedy as
25 described by Subsection (f), an agreement under Subsection (b-1)
26 must incorporate the choice of remedy that controls under
27 Subsection (f).

1 (f-2) In a timely manner after responding to the notice
2 given under Subsection (e), the owner or lessee and the
3 municipality shall enter into an agreement to stop the
4 nonconforming use of the property as provided by this section.

5 (g) A person receiving a payment under Subsection (d)(1)
6 pursuant to an agreement entered into under Subsection (b-1) must
7 stop the nonconforming use not later than the 10th day after the
8 date of the payment.

9 (h) A person who continues the nonconforming use under
10 Subsection (d)(2) pursuant to an agreement entered into under
11 Subsection (b-1) must stop the nonconforming use immediately on the
12 recovery of the amount determined under Subsection (d)(1).

13 (i) If more than one person seeks a payment from the
14 municipality under Subsection (d)(1), the municipality shall:

15 (1) apportion the payment between each person based on
16 the market value of the person's interest in the property; and

17 (2) explicitly state the apportionment in the
18 agreement entered into with the person under Subsection (b-1). [~~A~~
19 ~~person may appeal the apportionment in the manner provided by this~~
20 ~~section.~~]

21 (1) A person seeking to continue a nonconforming use under
22 Subsection (d)(2) who brings an action for declaratory relief under
23 Section 211.0202 [~~appeals the decision of the municipality or board~~
24 ~~of adjustment~~] may continue to use the property in the same manner
25 while the action is pending [~~the appeal~~] unless an official of the
26 body that made the decision shows cause to stay the nonconforming
27 use by certifying in writing to the [~~board of adjustment or~~] court

1 ~~[with jurisdiction over the appeal]~~ facts supporting the official's
2 opinion that continued nonconforming use of the property would
3 cause imminent peril to life or property. On a showing of cause the
4 ~~[board of adjustment or]~~ court ~~[with jurisdiction over the appeal]~~
5 may, after notice to the official, grant a restraining order to stay
6 continued nonconforming use of the property.

7 SECTION 3. Subchapter [A](#), Chapter [211](#), Local Government
8 Code, is amended by adding Sections 211.020, 211.0201, and 211.0202
9 to read as follows:

10 Sec. 211.020. RIGHT TO RESUME NONCONFORMING LAND USE. (a)
11 This section does not apply to a person who:

12 (1) changes or stops a nonconforming use of a property
13 pursuant to a requirement imposed by a municipality under Section
14 [211.019](#); and

15 (2) receives a payment or continues the nonconforming
16 use for a period of time pursuant to an agreement under Section
17 [211.019](#)(b-1).

18 (b) A person using a property in a manner considered to be a
19 nonconforming use as a result of the adoption of or change to a
20 zoning regulation or boundary who changes the use of the property to
21 a conforming use or otherwise stops the nonconforming use of the
22 property may resume the nonconforming use of the property if the
23 person resumes the nonconforming use of the property before the
24 fifth anniversary of the date the person changed or stopped the
25 nonconforming use.

26 Sec. 211.0201. RIGHT TO CONTINUE OR MODIFY NONCONFORMING
27 LAND USE. A municipality may not prohibit or restrict:

1 (1) the repair of a nonconforming structure;

2 (2) a person from continuing a nonconforming use of a
3 property in accordance with this subchapter after the repair of a
4 nonconforming structure or construction of a new building or
5 structure to replace a damaged nonconforming structure; or

6 (3) modification or expansion of a nonconforming use
7 of a property if the modification or expansion is necessary to:

8 (A) continue the nonconforming use of the
9 property; or

10 (B) protect the health and safety of the property
11 or occupants.

12 Sec. 211.0202. NONCONFORMING LAND USE; DECLARATORY
13 JUDGMENT ACTION. (a) A person may bring an action against a
14 municipality for declaratory relief under Chapter 37, Civil
15 Practice and Remedies Code, for a claimed violation of Section
16 211.019, 211.020, or 211.0201.

17 (b) A municipality's immunity from suit and governmental
18 immunity from liability are waived for purposes of an action
19 brought by a property owner or lessee under this section.

20 SECTION 4. Sections 211.019(j), (k), (m), (o), and (p),
21 Local Government Code, are repealed.

22 SECTION 5. (a) Section 211.019, Local Government Code, as
23 amended by this Act, and Sections 211.020, 211.0201, and 211.0202,
24 Local Government Code, as added by this Act, apply to a property for
25 which, on or after the effective date of this Act, a municipality:

26 (1) considers a proposed adoption of or change to a
27 zoning regulation or boundary under which a current conforming use

1 of the property is a nonconforming use; or

2 (2) receives a request to require a person to stop a
3 nonconforming use of the property.

4 (b) A property for which a municipality considers a proposed
5 adoption of or change to a zoning regulation or boundary under which
6 a current conforming use of the property is a nonconforming use or
7 receives a request to require a person to stop a nonconforming use
8 before the effective date of this Act is governed by the law in
9 effect immediately before the effective date of this Act, and that
10 law is continued in effect for that purpose.

11 SECTION 6. This Act takes effect September 1, 2025.