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June 2, 2019

Mr. Greg Abbott  
Texas Governor  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Via Email Delivery to:

*bryan.daniel@gov.texas.gov; mary.york@gov.texas.gov; tamara.andrew@gov.texas.gov; jordann.jezek@gov.texas.gov; michael.treyger@gov.texas.gov; John.Colyandro@gov.texas.gov; Luis.Saenz@gov.texas.gov*

Dear Mr. Abbott:

We write you this letter, united as two organizations with members totaling over 3,450 Texans, out of sincere and mounting concern regarding HB2439. Although the Bill passed the House and Senate with wide margins, we were not as organized as we are now, and we were unable to share our concerns to Representatives and Senators to the magnitude we write you with today, before the Bill was passed. A few small factions of the development industry were able to organize faster than we did to voice their support of the Bill, but we are here now to urge you to veto this Bill. We now have a petition, which has already exceeded many goals we had: 100 signatures, 300 signatures, 400 signatures, and then we just kept moving the target after that—we have now surpassed 900 signatures. We will continue to give Texans an opportunity to voice their opposition through the petition, and we hope that you will thoughtfully review the signatures and comments attached, as well as the live petition site where signatures and comments continue to roll in ([www.vetoHB2439.com](http://www.vetoHB2439.com)).

Although many exemptions have been haphazardly provided as amendments in the Bill, they do not go near far enough to address the potential ramifications to Texas cities, neighborhoods, and special places, existing and future. We have summarized a few key reasons we are opposed to the Bill below, although we have much more to say about them:

- **Economic development will be adversely affected.** If cities no longer have the ability to regulate aesthetics and quality development, especially in commercial or mixed-use areas, it will adversely affect economic development, both in cities and in the State of Texas. This point cannot be underscored enough—our organizations exist to be advocates of cities and for people who live, work, and play in them, and we are also advocates for high quality design. Design matters, and the fastest way to understand that is to remove cities' abilities to have strong zoning, including aesthetics, consistent with a community vision created through thorough community engagement processes. Branded destinations and special places contribute to great quality of life, which attracts desirable businesses and residents.
- **Aesthetics in cities will be dramatically disturbed.** Communities throughout the country have found that their residents not only support the involvement of their elected representatives in maintaining the physical character of their city or town, but they insist on it. They are often irate when government fails



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to prevent an individual from charting his or her own course in a way that is perceived to have a negative effect on the aesthetics of the community.

Imagine the most beautiful downtowns of our Texas communities getting five-story, neon green buildings with neon pink polka dots in them, or the most scenic places and neighborhoods in Texas getting monstrosities throughout them, which meet just the minimums of the National Building Code. These areas are not covered by historic protections or Main Street Programs in many circumstances. Also, where those protections and programs exist, they do not extend to all areas in need of aesthetic zoning. Special place districts, not eligible for the exemptions in the Bill, would also be at risk of **significant disruption and irreversible damage**. That is just the aesthetic side of the Bill, let alone the installation and construction side of development that would be left to bare minimums.

- **The Bill will have many unintended consequences.** Infill projects, i.e. those projects going into or renovating in already developed areas, would no longer have to match the existing character, look, feel, or aesthetics of their neighbors, regardless of the area they are in and what zoning protections may be applicable to the area currently. Beautiful places and neighborhoods, once preserved by sound zoning approved by the community, could be completely destroyed by one flippant or careless property owner or developer, or worse yet, a group of them. Cities' abilities to protect existing residents' or business owners' investments and well-being would be severely affected.

This Bill takes away the ability of a city to make reasonable design standards, in collaboration with the community and their vision, through required state public engagement processes and community workshops. **The Bill prohibits cities from requiring installations or methods of construction that they have identified to be safest for residents, employees, or visitors.** From colors to materials to quality to safety protections, everything will be bare minimum, and some places will be so drastically affected by the next legislative session, when this bill will no doubt be on the docket for repeal or significant revision if signed into law, **the damage will be lasting and irreversible.**

It appears to not only **prohibit the adoption of ordinances that require more stringent building materials or processes than the bare minimum of the National Building Code**, it also appears to **retroactively prohibit enforcing building material requirements more stringent than the National Building Code.**

It is retroactive and would affect existing zoning ordinances and planned developments that have already been adopted and constructed. Areas such as Las Colinas, Fredericksburg, Park Cities, Sugar Land, Addison Circle, Southlake Town Square, Lakeway, Watters Creek, and numerous other specialized developments in Texas, without deed restrictions, that were requested by the development community and property owners, approved by the communities they are in, will find their regulations can no longer be enforced. There are exemptions for historic buildings and certain other areas under very specific, but those have to meet certain state guidelines, and many historic structures and special places are not under those protections and cannot meet the criteria provided as exemptions.



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We ask that you go through the worst-case scenarios with your Staff, specifically on the aesthetic front and on the construction quality side of the discussion. Reach out to major cities in Texas and talk with their Planning Directors and Building Officials and Economic Development Directors and City Managers about how these restrictions can affect cities and to make sure you have an informed perspective on the Bill. We sincerely and urgently request that you veto HB2439. Whatever problems its authors sought out to solve, the Bill goes too far and was not made in collaboration with cities and those who advocate for people who live in them. This Bill would be detrimental to Texas cities and terrible for Texans.

We hope that you will reach out and ask for clarification or to discuss this Bill with us. We are eager and willing to talk through this and work together to find appropriate courses of action to solve Texas' problems. We are available to talk, email, meet—anything you need or want in order to hear our perspectives.

Sincerely and in Partnership,

A handwritten signature in blue ink, appearing to read 'M. Douglas McDonald'.

M. Douglas McDonald, AICP  
American Planning Association – Texas Chapter, President  
Phone: 214-801-7792  
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A handwritten signature in black ink, appearing to read 'Lara Moffat'.

Lara Moffat, ASLA  
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A handwritten signature in blue ink, appearing to read 'Brent Luck'.

Brent Luck  
American Society of Landscape Architects – Texas Chapter, VP of Government Affairs  
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Attachment: Most Recent Print of Live Petition at [www.vetoHB2439.com](http://www.vetoHB2439.com)