



TCAA: Why Legislative Advocacy Matters

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Texas Community Association Advocates is the legislative advocacy arm of Texas CAI. Legislative advocacy success is often judged by what *didn't* happen rather than what *did*. You rarely get excited about, or see a news story about, the homeowner who stopped the grease fire in the kitchen before it burned down the house.

In the 2013 Texas legislative session, there were **more than 100 POA bills filed**. Needless to say, bills are not filed when the legislature thinks an industry is without need for further regulation. In comparison, California has an average of 10 POA bills filed every session, and California CAI has a full-time in-house lobbyist and lobby administrative assistant.

Increased regulation has many ramifications, including:

- **decreased ability for homeowners to make their own decisions about their community** (e.g., you can no longer decide if you don't want delinquent owners to be eligible for board membership. The 2011 Texas legislature decided that *all* owners were entitled to run for the board.)
- **increased costs in administering a POA** (e.g. caps on record production costs.)
- **decreased ability to enforce deed restrictions** (greatly curtailed ability to collect delinquent assessments; restricted ability to collect fines.)

All these items have a real effect on homeowners, POAs, and businesses that provide valuable services to them.

The following are a handful of the hundreds of examples of legislation that over the years, TCAA and its predecessor lobby organization have successfully worked to defeat, while working to support reasonable legislation. **What would these bills, if passed, have done for your home value, quality of life, or your business?**

Government oversight of POAs. This bill would have required all HOA funds to be placed in trust, with very tight limitations on their use. It would have made HOA statutory violations automatic violations of the Texas Deceptive Trade Practices Act, and given the attorney general investigative and enforcement rights.

Landscaping; zero ability to enforce standards: If this bill had passed, no POA would have had the right to enforce any landscaping restrictions (including watering; a POA must allow lawns to be in “native vegetative state”. In Texas, needless to say, often “native state” = “dead”.)

Resale certificate fees caps; prohibition of all transfer fees: Resale certificates are very expensive to prepare; they are customized for each individual home or condominium. Capping fees would require management companies to cover their costs elsewhere, in the form of increased management fees, thus requiring increased assessments for all owners. Transfer fees often supplement reserves, fund a pool fund, etc. Again, without such fees, assessments would have to increase to fund these items.

Governmental Open Meetings/Open Records Act applicable to all POAs: This bill has been proposed and defeated *numerous* times. This Act is a 300+ page act. It would be the POA attorney’s full-employment act. A large local POA looked into the cost of compliance with this Act several years ago, and determined it would cost the POA approximately \$80,000 annually.

“Or” vs. “and”, and other stories: There was great debate in the 2011 legislative session over language that required notice of open board meetings to be mailed “and” emailed with signage also posted, vs. mailed “or” emailed with signage also posted. TCAA argued that mailing notice to all owners of every board meeting was unnecessary, not as likely to be read as email and signage, and unduly expensive. Advocates on the other side argued that notice should be mailed every single time. This would be a tremendous expense, not to mention tremendous burden, especially to self-managed associations. TCAA spend literally *days, tens of hours*, educating and advocating *on this one issue, in a session where there were more than 130 bills filed* – and ultimately the “or” language was passed into law.

Owners can cut down any tree they “believe” to be a fire risk. This bill has been filed again in the 2015 legislative session; it did not pass in 2013 when it was first filed. The concern is that any owner could cut down a tree (a neighbor’s tree blocking their view, etc.) under the pretense of “believing” it to be a fire risk; there is no requirement that the belief be reasonable or be based on an expert opinion.

POA must have physical polling place open 7:00 am to 7:00 pm for board elections. This would have required great expense to POAs for reserving a facility for 12 hours, and manning the polls, likely with management staff. TCAA ultimately was successful in negotiating absentee balloting as a means for those who cannot attend the annual meeting to be able to cast a vote.

No restrictions on Ham radios. A bill filed in a previous legislative session would have prohibited POAs from placing *any* restrictions on Ham radio installations, including size restrictions, location restrictions, or any other restrictions.

Every bill whose language passed was either supported by TCAA, or negotiated at length, and the results were the best-case given the climate at the legislature. (For example, Governmental Open Meetings Act became the HOA open meetings requirements in Texas Property Code Chapter 209.)

That’s why funds are vital to continued efforts, and why we educate and enlist supporters in the interim. **How much is it worth to you to support efforts to oppose harmful legislation, and support reasonable legislation?** Please visit the TCAA website to become a supporter if you haven’t yet done so. It matters!
www.txcaa.org

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