



TRCC

The ideal candidate for a final sunset



UNPOPULAR - The people of Texas said loud and clear that they wanted the TRCC abolished. In hearings conducted by the Sunset Advisory Commission in September 2008 and before two House Committees in March, not one consumer testified in favor of keeping this agency. In fact, the public registered its preference for abolishing this agency before the Sunset Advisory Commission by a vote of 246 to 14, including votes from several builders. All 14 opposing testimonials came from builders and their allies.

UNFAIR & MISLEADING - The TRCC's dispute resolution process was grossly unjust for homeowners as documented by a 12% complaint resolution rate for the past 5 years. HB 2295 was 70 pages long and so horribly convoluted, confusing and vague that it was an invitation to litigation and abuse. It failed to provide regulatory oversight of either the homebuilding industry or the TRCC itself. It failed to ensure the competence of Texas builders or prevent unqualified persons from entering the field. It failed to require performance bonds to protect homeowners. And it failed to fulfill the stated promise of the bill's sponsor.

THE PROMISE - Rep. Ruth McClendon, the sponsor of HB 2295, said in the January/February 2009 issue of **Texas Builder**¹ magazine: *"My predictions for the TRCC...would include an opportunity for mediation rather than arbitration, and a choice of whether to follow agency complaint and inspection procedures or to take the matter to court."* Unfortunately this bill only created the illusion of homeowner access to voluntary mediation. The homeowner would ONLY be entitled to mediation if the builder requested a third party inspection, which would never happen. Sections 426.005 and 426.006 of the Texas Property Code still mandated TRCC compliance with TRCC third party inspection procedures.

THE REALITY - Rep. McClendon's bill did not reflect her promise. That is why HOT endorsed HB 2243 to give Texas homeowners true regulatory oversight of the \$35B Texas homebuilding industry and direct access to legal remedies. This alternative would have provided for licensing of Texas homebuilders by TDLR. Texas Department of Licensing and Regulation has a solid reputation and 100 years of regulatory experience. TDLR licensing of builders would have enhanced the professionalism of the homebuilding industry, prevented unqualified persons from entering the field, improved the quality of new homes built in Texas, and contributed to economic development.

CONTROVERSIAL - The TRCC was up for a Sunset Review in the 81st Legislative session. A 12-member Commission periodically examines each state agency looking for waste, duplication, and inefficiency, but the TRCC was widely criticized for protecting the homebuilding industry more than the public. Two state reports, the **Texas Comptroller Report**² in 2006 and the **Sunset Advisory Commission Staff Report**³ in 2008, recommended that it be abolished. The Comptroller report called it a *"builder protection agency."* The Sunset Staff Report said it was *"never meant to be a true regulatory agency with a clear mission of protecting the public"* and it was *"fundamentally flawed"* and did *"more harm than good."* Homebuilder lobbyists swarmed the Capitol for months, spending millions and doing all they could to save the agency they created. They got the Commission to endorse a Sunset bill (HB 2295) that they wrote to extend TRCC operations for six years. But HOT convinced Texas lawmakers to vote against the bill and thus abolish the TRCC. HOT argued that the TRCC Sunset Bill did NOT create a true regulatory agency and actually made things worse.

¹ http://www.homeownersoftexas.org/McClendon_Article.pdf

² <http://www.window.state.tx.us/trcc/trcc.pdf>

³ http://www.sunset.state.tx.us/81streports/trcc/trcc_dec.pdf