



HOMEBUILDING A Top Priority This Session



Mandatory TRCC Sunset Decision

The Texas Residential Construction Commission, a controversial \$10.5M agency, will automatically Sunset on 9/1/2009 unless the legislature votes to extend and fund it. Options include: (1) kill it, (2) amend it, (3) reform it, or (4) replace it.

Option 1 – KILL IT: The Sunset Advisory Committee Staff Report recommends abolishing the TRCC, saying it “*fails to provide meaningful oversight and public protection ... is fundamentally flawed ... and does more harm than good.*” Overwhelming public opinion agreed. 246 public responses said kill it vs. 14 to keep it. In an older 2006 report, Texas Comptroller Carole Keeton Strayhorn, said, “*If it were up to me personally, I would blast this TRCC builder-protection agency off the bureaucratic books.*”

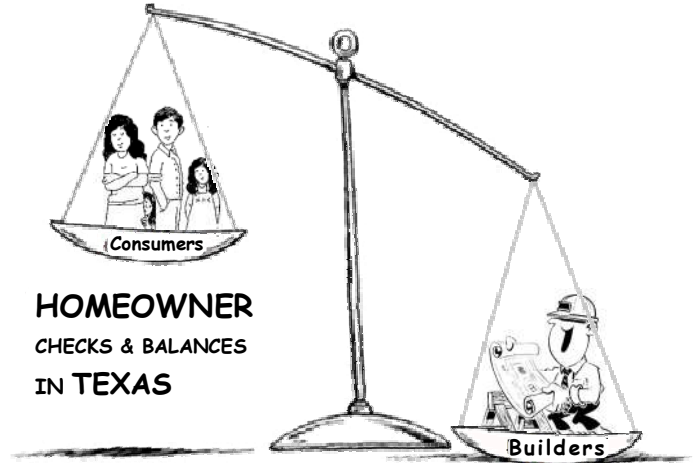
Option 2 – AMEND IT: The Sunset Committee wants to amend and “improve” the TRCC by implementing minor changes that amount to “window dressing.”

Option 3 – REFORM IT: The TRCC can’t fairly mitigate disputes or effectively regulate the homebuilding industry with window dressing. Major reforms are needed. The State Inspection Process must be optional, rather than a mandatory roadblock to the legal system. And registration must be replaced with licensing and enforcement authority.

Option 4 – REPLACE IT: The Texas Department of Licensing and Regulation has no homebuilder bias and is far better equipped to administer licensing programs than the TRCC.

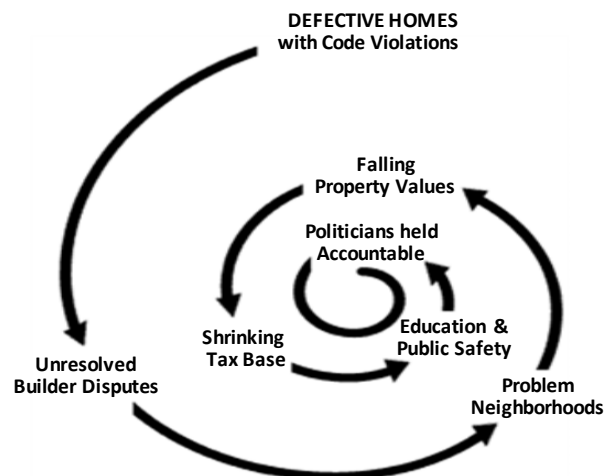
TRCC Unintended Consequences

The TRCC was established in 2003 by the homebuilding industry to reduce lawsuits, but without consumer representation in the process. Mr. John Krugh, senior VP and corporate counsel for Bob Perry Homes, drafted the bill that established the Commission and was appointed as its first Chairman. By superseding DTPA (Texas Deceptive Trade Practices-Consumer Protection Act of 1973) and RCLA (Residential Construction Liability Act of 1989), the TRCC removed builder accountability and replaced it with regulation of homeowners. Homeowners have been left with limited access to the legal system that should help protect them. As a result, lives have been ruined and neighborhoods decimated.



Just as the housing bubble and subprime loans contributed to record foreclosures and a global financial collapse, substandard construction impacts more than just individuals and families in your district. It affects entire neighborhoods, towns, the state, and the tax base.

Example: Frank and Sandee Bradshaw abandoned their home and mortgage and accepted the financial consequences because their home was defective and is now unsafe. It was built on a post-tension slab foundation that can’t handle expansive clay soil. The house is crumbling around them and is now filled with toxic mold. The mold exacerbates Frank’s respiratory problems and would have killed him if he stayed. The TRCC was powerless to force a fix by the builder, who refuses to buy back the home. Surrounding homes have had similar problems and are caught up in the serious decline of this relatively new neighborhood.



Texas, with 118,000 single-family housing starts in 2007 (23% of the 776,000 U.S. total per U.S. Census), has become the nation's biggest homebuilding market, partially because of an abundant supply of cheap land & labor, but also because there's no accountability. Texas provides special builder protections that aren't found in any other State or industry. While 28 other states have licensing authority to keep builders accountable, Texas substitutes registration for regulation, making it a magnet for unscrupulous builders from out-of-state.



Texas are Worse off with the TRCC

- \$10.6 Million agency (2008 budget) fails to protect the public
- Builders disregard (just half of Dallas remodelers registered)
- About half of 28,000 builders have yet to register a project
- Pretending to regulate (registration) enables bad behavior
- Protection from lawsuits encourages bad behavior
- State Inspection Process poses legal road blocks
- Homeowners still need their own attorney and experts
- Homeowners can't use their own inspectors
- TRCC staff makes binding decisions without legal training
- Only 12% of closed cases resulted in satisfactory outcome
- 88% sought other legal remedies after added cost and delays
- Illusory warranty terms replace Implied Warranties
- Builder delay can extend past warranty expiration
- Lives have been ruined and neighborhoods decimated
- Property values, tax base, public service funding impacted
- TRCC misled the public leading to considerable distrust
- The list goes on, and on

TRCC Sunset Staff Recommendations (HOT Summary)

- **Consumer Distrust:** The report concludes that the TRCC is "fundamentally flawed" and should be entirely abolished because it has caused widespread harm to consumers by protecting builders from accountability and failing to protect homeowners while denying them timely access to the courts.
- **Diminished Access to Courts:** A Texas homeowner who has purchased or built a defective new home and cannot get the builder to repair the home is prohibited by state law from suing the homebuilder before first going through the State Inspection & Resolution Process (SIRP). According to the Staff Report, the average time to process SIRP requests is 147 days (about 5 months), and if the homeowner repairs defects while the inspection request is pending, the case is then administratively closed.
- **No Enforcement:** Once the State Inspection Process is complete and a defect is confirmed, the Commission lacks the authority to force repair of confirmed defects. If a builder repeatedly refuses to submit an offer to repair, the Commission can take administrative action against the builder but, so far, the TRCC has not used this authority.
- **No Licensing:** In Texas you individually need a license to drive a car or catch a fish, and your barber, tow truck operator and tattoo artist need licenses to practice their art, but not your builder. 28 states license homebuilders, including 10 out of 13 southern states. Texas, Oklahoma and Kentucky are the only southern states that don't license homebuilders.
- **Registration is not Regulation:** "The need for regulation centers on protecting the public. Protecting practitioners is not the rationale for involving the power of the State." The TRCC only requires builders to register, and they don't have to prove that they have either a basic knowledge of construction or that they are financially sound.
- **Inspection Process:** There is no system in place to process urgent cases involving habitability issues, such as water leaks or problems with heating and air conditioning systems or structural components, and since the TRCC opened its doors in early 2004, only 12% of all State Inspection cases have resulted in a satisfactory offer of repair or compensation.



About Homeowners of Texas, Inc.

HOT is a 501(c)4 nonprofit Texas Corporation, formed on May 7, 2008. We advocate legislative reforms that improve the homebuilding industry through the licensing of homebuilders and remodelers.