



American Planning Association  
**Texas Chapter**

*Creating Great Communities for All*

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**Re: HB No. 3490**  
**House Committee: Land & Resource Management**

Thank you, Chairman Burns. **My name is Carissa Cox** and I am testifying on behalf of the American Planning Association - Texas Chapter (APATX). **in opposition to HB 3490** as written because it is onerous and would negatively impact property owners in Texas. Our concerns about this bill are as follows:

1. Nonconforming uses are already protected under state law, and amortization has long been recognized by the courts as a process for the eventual conversion of incompatible land uses.
2. This bill allows tenants to interfere with the rights of a property owner. An owner could request a rezoning to a higher and better use and tenants could oppose the nonconformities created. Additionally, providing notice to tenants is often impossible, and, for rezonings initiated by private property owners, this confounds the rezoning process.
3. The bill says that notice is required if any change “might” create a nonconformity. Many cities do not have land use databases specific enough to determine the location of individual nonconforming uses. If notice is required to be given to nonconforming uses, then the statute must provide for mandatory registration of nonconforming uses with a failure to register operated against the property owner or tenant. This creates additional levels of bureaucracy, translating to additional costs for property owners and time for processing applications.

We strongly oppose this bill as written but are happy to offer amending language and could support a substitute bill that takes our concerns into account. APATX members work with the public and the development community in many ways, every day. Our members stand ready to assist you in this legislation.

Respectfully submitted,

**Heather Nick, AICP, MPA**  
**Chapter President**  
**Texas Chapter, American Planning Association**