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To the Honorable Chairman Tom Craddick and Members of the House Committee on Land and Resource Management:

The Texas and Southwestern Cattle Raisers Association (TSCRA) greatly appreciates the opportunity to provide comments on the House Land and Resource Management Committee interim charge to:

Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute with the mandatory contents of the LBoR.

The Texas and Southwestern Cattle Raisers Association was founded in 1877 to combat cattle rustling and other issues facing ranchers at the time. Today, the Association continues its mission of protecting the stewards of land and livestock in the Southwest by advocating for sound public policy on issues that impact cattle producers and landowners.

TSCRA boasts more than 17,500 beef cattle operations, ranching families and businesses as members. These members represent approximately 55,000 individuals directly involved in ranching and beef production who manage 76 million acres of range and pastureland primarily in Texas, Oklahoma and throughout the Southwest.

Nowhere is TSCRA's advocacy more important than in the realm of private property rights. These rights are not only fundamental to the freedom and independence of all Texans, but essential to the production of cattle.

Texas is home to 13 million cattle, more than any other state, according to the latest inventory report by the U.S. Department of Agriculture's National Agricultural Statistics Service. These cattle represent approximately one-sixth of the entire U.S. cattle inventory.

The Texas cattle industry is the leading contributor to the state's agricultural economy with annual sales in excess of \$12 billion. However, cattle production is not only essential to state's economy or financial well-being of Texas' cattle producers – it is essential to the survival of all Americans.

As we have recently seen with the COVID-19 pandemic, any disruption in the highly efficient beef supply chain can result in dire consequences and reduced availability of beef for American consumers.

To ensure the food security of our state and nation, Texas ranchers must be better protected from infringement of their private property rights that inhibit or deter their ability to produce cattle.

TSCRA appreciates the House Committee on Land and Resource Management for reviewing the efficacy of the inaptly named Landowner Bill of Rights. We have provided several suggestions for your consideration below. However, it is our belief that mere changes to the document will not address the persistent concerns of Texas cattle producers or improve the chronic imbalance of the eminent domain process for Texas property owners.

In contrast to the Bill of Rights in the U.S. Constitution, with which we are all familiar, Texas' Landowner Bill of Rights does not actually grant any rights or privileges to the citizens of Texas. It is merely an informational notice of the circumstances Texas landowners face when confronted with the forced condemnation of their property.

As such, we believe the document should be renamed to accurately reflect its intended purpose – to serve as a notice and provide limited information on the eminent domain process.

A failure to rename the document will continue to give citizens of Texas the false impression that Texas statutes and regulations provide them with protection in the event a public or private entity seeks to take their property under threat or execution of eminent domain proceedings.

Further, the current disclaimer at the end of the notice should be revised and moved to the beginning. It is our belief that while the current disclaimer statement does adequately describe the document, it is not property highlighted and does not convey in strong enough terms the necessity of legal counsel given the current lack of safeguards in statute.

Texas Real Estate Commission promulgated contracts for residential real estate transactions state clearly, boldly and in upper case, “CONSULT AN ATTORNEY BEFORE SIGNING.” Those individuals receiving a state promulgated document for the for the forced sale of their property should receive no less forceful a recommendation than those willingly selling their property.

It is our recommendation that the LBoR be revised to include a disclosure at the beginning of the document in bold, uppercase lettering no less than two font sizes larger than plurality of text in the body of the document and state:

“CONSULT AN ATTORNEY BEFORE SIGNING ANY AGREEMENT OR CONTRACT. THIS STATEMENT IS NOT LEGAL ADVICE AND IS NOT A SUBSTITUTION FOR LEGAL COUNSEL. INFORMATION CONTAINED BELOW IS MERELY INTENDED TO BE A SUMMARY OF THE APPLICABLE PORTIONS OF TEXAS STATE LAW AS REQUIRED BY HB 1495, ENACTED BY THE 80TH TEXAS LEGISLATURE, REGULAR SESSION.”

Additionally, in the numerated rights section of the document, two numerals should be added, and the section be renumbered as appropriate to include the following rights:

“You have the right to use your own form of easement or negotiate terms within the easement or instrument of conveyance that differ from or are in addition to the terms offered by the condemnor.”

“You have the right to contest the condemnors exercise of eminent domain in court.”

In the section of the LBoR entitled “condemnation procedure,” it should be added that any entity exercising eminent domain must be listed on the Texas Comptroller’s Eminent Domain Database, which is publicly available at: <https://coedd.comptroller.texas.gov/>

Lastly, the “how the taking process begins” section should include a complete chronology of the process, showing statutory timelines where applicable, including the timing of the final offer containing the appraisal.

Aside from the above recommendations necessary to properly convey the purpose and limitations of the LBoR, TSCRA believes revisions to the LBoR without statutory changes that address fundamental shortcomings in the eminent domain process itself will not adequately assist Texas landowners.

Texans deserve an eminent domain process that is fair, transparent, and that holds condemnors accountable to the citizens.

The House Committee on Land and Resource Management, and Texas legislature, should focus its valuable time and resources on developing and instituting meaningful changes to better protect its constituents from an eminent domain process that is unbalanced and excruciating for property owners to endure. Every time a rancher is faced with the laborious task of defending their land against eminent domain or other property rights encroachments, it makes the business of raising cattle exponentially more difficult.

If allowed to continue, the encroachment of eminent domain on Texas ranches will have dire consequences for the Texas economy and our ability to continue to provide an adequate food supply for our citizens.

I again thank Chairman Craddick and Members of the House Committee on Land and Resource Management for your attention to this critical issue.

The Texas and Southwestern Cattle Raisers Association is committed to bettering the private property rights of our members and stands ready to assist in any way possible as the committee explores improvements to Texas’ eminent domain process.

Sincerely,

G. Hughes Abell
First Vice President
Texas and Southwestern Cattle Raisers Association