

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Thursday, October 25, 2018 11:26:43 AM

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-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Thursday, October 25, 2018 11:24 AM  
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS REAL ESTATE COMMISSION

First Name: Andrea

Last Name: Barnard

Title: Executive Director

Organization you are affiliated with: Texas Association of Real Estate Inspectors (TAREI)

Email: andrea@tarei.com

City: Dripping Springs

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or  
Opposed:

October 25, 2018

Kay Hricik

Commission Members

Sunset Advisory Commission

PO Box 13066

Austin, TX 78711

RE: Texas Real Estate Commission Review

On behalf of The Texas Association of Real Estate Inspectors (TAREI), we are asking that you review the following information regarding the Texas Real Estate Commission currently under your review. Our association and professional industry feel strongly that the Sunset Committee should be made aware of the current conditions between TREC and the home inspection industry.

It is becoming abundantly clear that the consumer public and the home inspection industry would benefit by the creation of an "Inspector Board" similar to the existing Appraiser Board currently within TREC. The results of this change would finally allow fair representation to the consumers of real estate in this state. The obvious direct conflict of interest with inspectors being under the rule of TREC affects "true and fair" representation for the consumers of this state.

The 1990 Sunset Committee previously made the recommendation to remove Inspectors from TREC and be placed with their own board. We respectfully request the same recommendation again for the fair and equal representation of the consumers in this state as well as the home inspection profession and industry. In addition, we respectfully

request that this recommendation be forwarded to the State of Texas Attorney General Office regarding conflict of interest within TREC.

Recent events and proposals within TREC, TREC Legal Staff, and Texas Real Estate Inspector Advisory Committee continue to make for much concern within our industry and among professional inspectors across the state. Current proposals under review and discussion specifically deal with limitation of liability and insurance requirements. These matters were originally going to be brought before the TREC full meeting on August 13th, 2018. However, due to the overwhelming attendance and dissent of inspectors present at that meeting these matters were pushed back to the Inspector Advisory Committee and TREC Legal Staff to rework. Since that time, TREC continues to push for removal of contractual limitation of liability for the inspector community.

To support the request for the creation of an independent inspector board, evidence shows that TREC continues to exceed its intended regulatory function to the detriment of the home inspection industry. Some examples of this include:

- TREC proposal that inspectors may not limit liability in contract between themselves and their client by using an Inspection Agreement. "Limitation of Liability" language is commonly required by E/O insurance providers regarding frivolous type lawsuits. 99+% of claims against inspectors fall under this "frivolous" category. Removal or change of this language from any contractual agreement with a client would have a catastrophic effect on the inspection industry with mandated TREC E/O insurance requirements.
- Governor Greg Abbott letter dated June 22, 2018 was sent to agency heads and references Executive Order 12291 at the national level. Letter goes on to instruct "Office of the Governor will review the Notice of Proposed Rule as well as the agency's internal analysis of the rule". To our knowledge, TREC has not forwarded any information regarding rule changes for the home inspection industry.
- TREC mandated "professional insurance" requirements continue to be hotly debated. Governor Rick Perry Official Memorandum from June 15, 2007 called this an "erroneous clause". Gov. Perry's Official Memorandum called for the "Legislature to rethink this requirement and address this problem in 2009".
- Attorney General Greg Abbott released Opinion No. GA-0581 on November 26, 2007. This opinion stated: "We have been informed that the Commission, at a meeting on June 4, 2007, issued an interim policy statement defining "liability insurance" in sections 38 & 39 to mean professional liability insurance, also known as errors and omissions insurance, until this office issues an opinion about the new requirements". Currently, TREC Legal Staff is moving forward to now include General Liability insurance as an additional requirement for licensed home inspectors. To our knowledge, TREC has not contacted the Attorney General or Governor's Office regarding clarification or review of any new requirements.

Clearly one can see the ongoing conflict of interest using the current procedures and makeup of TREC as it relates to inspectors. These conflicts affect each and every consumer in the State of Texas.

Currently, in the State of Texas, there are approximately 3500+ licensed home inspectors, yet only approximately 40% of home purchases choose to utilize an inspector. The home inspection industry is designed as an advocate for the consumer by nature of our industry. TAREI feels strongly that the creation of an independent "Inspector Board" will continue to protect the consumer in addition to allowing for the growth and health of the home inspection industry.

Thank you for your time in reviewing this recommendation. Please let us know if you have any questions, or require any additional information.

Sincerely,

The TAREI Board of Directors

TAREI

Texas Association of Real Estate Inspectors P.O. Box 1755 Dripping Springs, Texas 78620

Any Alternative or New Recommendations on This Agency:

October 25, 2018

Kay Hricik

Commission Members

Sunset Advisory Commission

PO Box 13066

Austin, TX 78711

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Sincerely,

The TAREI Board of Directors

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Texas Association of Real Estate Inspectors P.O. Box 1755 Dripping Springs, Texas 78620

My Comment Will Be Made Public: I agree