

HOUSE BILL REPORT

HB 2674

As Reported by House Committee On: Local Government

Title: An act relating to requiring a public hearing before a local government may remove a recorded restrictive covenant from land owned by the local government.

Brief Description: Requiring a public hearing before a local government may remove a recorded restrictive covenant from land owned by the local government.

Sponsors: Representatives Gregerson, Appleton, Orwall, Hudgins, Bergquist and Jinkins.

Brief History:

Committee Activity:

Local Government: 1/16/18, 1/30/18 [DP].

Brief Summary of Bill

- Limits the requirement that a city, town, municipal corporation, or county hold a public hearing before removing a restrictive covenant from land it owns to apply only when a restrictive covenant is recorded.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 4 members: Representatives Appleton, Chair; McBride, Vice Chair; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Taylor.

Minority Report: Without recommendation. Signed by 1 member: Representative Griffey, Ranking Minority Member.

Staff: Cassie Jones (786-7303).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Generally, the owners of real property have the right to use property as they choose. Sometimes, the property may be subject to certain encumbrances, such as easements, covenants, or other restrictions. A covenant is an agreement between two parties about what can or cannot be done to or on the property. Typically, a restrictive covenant is an agreement between parties to refrain from doing something on or to the land. A restrictive covenant, which affects title to the land, may be recorded with the county auditor.

Counties, cities, towns, and municipal corporations may hold or acquire a development right, easement, covenant, restriction, or other right or interest in land. These restrictions on the real property may serve to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land. This right or interest is classified as real property.

A city, town, municipal corporation, or county must hold a public hearing prior to removing, vacating, or extinguishing a restrictive covenant from property it owns. The public hearing must provide opportunity for individuals to testify regarding the proposed action. The city, town, municipal corporation, or county must provide notice of the hearing at least 10 days prior to the hearing at its usual place of business and in a press release. Notice must also be posted on its website if it is updated for any reason prior to the hearing date. The notice must identify the property and provide a brief explanation of the restrictive covenant to be removed.

Summary of Bill:

The requirement that a city, town, municipal corporation, or county hold a public hearing and provide notice of the hearing on the removal of a restrictive covenant is limited to only apply to recorded restrictive covenants.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill creates a definition for covenant, which is a recorded, written, or oral agreement or promise, in the underlying statute. There are real-world difficulties in applying the statute that is amended in this bill. This bill would provide needed clarity on the type and scope of restrictive covenants that are included in the underlying statute. The statute is currently very open-ended in what promises trigger the hearing and notice requirements and includes any written agreements or promises that may have been made going back many years. It is difficult and expensive for a local government to go back and find unrecorded

covenants or promises from long ago. This bill, which limits the procedures to recorded covenants, aligns with the current property purchasing practice of relying on a title report. The bill preserves the elements of the underlying statute that promote transparency, including public hearing and notice.

(Opposed) None.

Persons Testifying: Representative Gregerson, prime sponsor; Doug Levy and Tammy White, City of Kent.

Persons Signed In To Testify But Not Testifying: None.