



Judge Rules Against City in LDC Lawsuit

Mar 18, 2020 | Land Development Code | 0 comments

Nine Vote Super Majority Now Required To UpZone Homes Against Owner's Wishes

First and Second Reading Council Votes Quashed

by Daryl Slusher

Travis County District Judge Jan Soifer this afternoon ruled for the plaintiffs, and against the City of Austin, in a lawsuit challenging the lack of notice procedures and the denial of protest rights in the massive Citywide rezonings proposed as part of the Land Development Code (LDC) rewrite.

Under the ruling, "Defendant City of Austin must send written notice to all property owners whose property is having its zoning changed, and to property owners with 200 feet of such property."

Because the City "violated" the state Local Government Code relating to notice, the Judge voided the Council's first and second readings in favor

of the LDC and related rezonings. Both readings were seven votes in favor and four against. Those voting in favor on both readings were: Mayor Steve Adler, Mayor Pro Tem Delia Garza, and Council Members Natasha Harper Madison, Sabino "Pio" Renteria, Greg Casar, Jimmy Flanagan, and Paige Ellis.

Even more importantly going forward, the Judge ruled that the City must honor protest rights. That means that it would take a three-fourths super majority of nine votes to approve zoning someone's property against their wishes. That is current law, but the City claimed it did not have to follow that law in a citywide rezoning. Under that law, even if the owner were to favor the zoning change, the protest of owners of 20% of property within 200 feet would also force a nine vote super majority.

This would restore clout to Council Members Kathie Tovo, Leslie Pool, Ann Kitchen, and Alison Alter who the Council majority has mercilessly rolled over, not only on first and second readings, but in a long series of votes leading up to first and second reading.

The suit was filed by a broad coalition of plaintiffs: Francisca Acuna, Susana Almanza, Jeffrey Bowen, William Burkhardt, Alecia M. Cooper, Roger Falk, Seth O. Fowler, Randy Howard, Mary Ingle, Patricia King, Fred Lewis, Barbara McArthur, Allan E. McMurtry, Laurence Miller, Gilbert Rivera, Jane Rivera, John Umphress, James Valadez, and Ed Wendler Jr.

This is a developing story and the *Austin Independent* will continue to report on it.

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