

What do Lobbyists & CRE Have in Common?

The definition of lobbying is undergoing a significant rewrite in the City of Austin and it could have a huge impact on the commercial real estate industry throughout the state of Texas.

BY BRANDI SMITH

The change got its start back in January 2014 when Austin's new city council members took their seats. For the first time in the Texas capital's history, the council was comprised of ten members voted on by district instead of at large, as well as the mayor.

"Basically what happened is they took City Hall and dumped it upside down," says Austin architect Stuart Sampley, who is also president of the city's AIA chapter. "It's a brave new world and people are still trying to figure out what the hell is going on."

One of the big issues facing the council is lobbying reforms for the city. In August, District 7 council member Leslie Pool sponsored a resolution written by attorney Fred Lewis that overhauls Austin's Lobbying Registration Ordinance.

"The changes that are being proposed to the existing lobby ordinance are substantial and have created significant concern among professional groups, not only in Austin but in other cities as well, as Austin is often the leader starting trends that other cities follow," said attorney Pamela Madere, director of Coats Rose's Land Use & Real Estate section.

"It is a very hot topic in this town through other interest groups that want more transparency

and want more accountability," echoed Sampley.

However, Sampley and others were concerned by the wide net the ordinance cast, which would have labeled many in the development community "lobbyists."

"Under the current proposal, if you have more than 26 hours of discussions [per quarter] with a city employee about a particular project then you may be considered a lobbyist," Madere explained. Along with that label comes a slew of other requirements, including registration and financial reporting.

Sampley says it's not at all uncommon for architects and other developers to spend more than 26 hours interacting with city staff on a variety of tasks.

"Clearly by what we're reading here is that the work that we do on a day-to-day basis—study stuff, permitting, etc.—would be considered lobbying and we didn't really feel like we are lobbyists," said Sampley.

In addition to all the registration and reporting requirements associated with the 'lobbyist' label, it would also prevent many of the most knowledgeable experts from weighing in on municipal projects.



Leslie Pool



Stuart Sampley



Pamela Madere

"Architects and engineers would not be permitted to sit on boards and commissions that are considering site plans, preliminary plans and important development documents," said Madere.

"You may think that my proposal will change the way our development community interfaces with the Council, and there is nothing in my proposal that does that," Pool told the Austin Monitor in November. "We are simply requiring them to register."

In response to the resolution, an 11-member coalition formed to represent Austin's development community with Sampley as the leader.

"We're not against transparency, we're not against an open government law, we're not against any of that stuff," Sampley insisted. "But we are against our day-to-day activities to show compliance in the drawings being considered lobbying."

Pool's resolution was reviewed by the City Council Audit and Finance Committee, which passed it on to the Ethics Review Commission. In November, commissioners unanimously voted to recommend the resolution to city council.

After a couple months of back-and-forth conversations,

Sampley's group sent a letter to the council, addressing its concerns, saying in part:

"Hundreds of design professionals, craftsmen, and administrators must interact and communicate with City staff in order to do their job, as it is nearly impossible to take a public (City, County, State, or Federal) or private project through the City of Austin permitting system without speaking to City staff at length. Having those professionals register as lobbyists would not provide any community benefits or more transparency. In fact, such information about who is working with city staff on a project is readily available to the public on the city's AMANDA database website."

The letter led to increased communication between the council and development professionals, which culminated in what Sampley considers forward progress: the addition of his group's proposed language that creates an exclusion for many development professionals. A victory to be sure, but Sampley says there's a long road ahead as the resolution works its way to becoming an ordinance.

Cautioned Sampley: "This is the very beginning of the process." ●