



July / August 2010 [www.recsanantonio.com](http://www.recsanantonio.com)

The Newsletter of the Real Estate Council of San Antonio

## Events Coming Up...

### Sept 8

Transportation Update  
at Petroleum Club  
7:30 a.m.  
Sponsor:  
Jacobs Engineering

### Oct 4

19th RECSA Annual  
Council Open  
at Hyatt Hill Country  
11:00 a.m.  
Title Sponsor:  
Pape-Dawson Engineers

### Nov 17

Due Diligence  
at Petroleum Club  
7:30 a.m.  
Members Only  
Sponsor: CDS / Muery  
Services

RECSA is proud to  
represent the  
industry that:

- Employs over 142,000 people in San Antonio.
- Has an economic impact of \$25.8 billion.
- Is the 2nd largest economic generator, second only to the healthcare industry.
- Has a local payroll of \$5.6 billion each year
- Generates nearly \$196 million in local tax.

## Mid-Year President's Report

By: Brenda Kelly Rowe



It has been my pleasure to serve the GREAT members of the Real Estate Council in 2010. I can't believe we are already past the midpoint! So far 2010 has been a busy year. We have been faced with many issues that affect the real estate industry including numerous new ordinances such as implementation of rough proportionality, sound attenuation around Camp Bullis, and a major overhaul of the tree ordinance. Currently we are working through a host of proposed UDC amendments, several new planning initiatives and issues with vested rights determinations (see Rob Killen's article on page 4). We have been working hard to hold the line on additional regulations that burden our industry, particularly in these difficult economic times, and we have been consistent with our message that leaders need to look at our industry from a balanced perspective to ensure continued

job growth, quality of life and affordable housing. The investment our industry makes in this community is essential to its continued economic growth and job creation!

I am truly thankful for each and every one of you that have put in so many volunteer hours, educating our officials and community leaders, building key relationships with City staff and elected officials and speaking on behalf of our industry. I was impressed by the number of individuals that came out to City Council for the tree ordinance and grateful to those who signed up to speak. You were amazing, thank you!

Your continued support and involvement in the Real Estate Council is critical to our success and effectiveness as an organization. If you would like more information on how to get involved or have comments and/or suggestions on how we can better serve our members please do not hesitate to drop me an email or give me a call.

**Mark Your Calendar!!!**  
**Main Event XIX - Fight Night**  
**Thursday, March 10, 2011**  
**Henry B. Gonzalez Convention Center**  
**\*\*Ballroom A\*\***

**Event Chairman: Kim Ghez, Presidio Title**  
**Auction Chairman: Brian Biggs, Frost Bank**

*Welcome  
New Members*

*We are pleased to  
announce the follow-  
ing new members:*

**PATRON**

**CORPORATE**

*Birnbaum Property  
Company  
Greg Mann*

**INDIVIDUALS**

*Chris Weigand  
Raymond Teske*

**Thanks to all of  
our renewing  
members!!!**

Contact  
Membership Chair  
Glenn Barton,  
Stewart Title,  
341-8861, if you are  
interested in joining  
RECSA.

# ***MARK YOUR CALENDAR***

THE REAL ESTATE COUNCIL  
OF SAN ANTONIO'S

## **19TH ANNUAL COUNCIL OPEN**

***TITLE SPONSOR***  
**Pape-Dawson Engineers, Inc.**

**MONDAY, OCTOBER 4, 2010**

**HYATT REGENCY HILL  
COUNTRY GOLF CLUB**

**Scramble**

11:00 a.m. Putting Greens and Driving Range Open  
11:00-12:30 p.m. Registration & Lunch  
12:30 p.m. Tee-Off, Shotgun Start  
6:00 p.m. Awards Dinner and Silent Auction

**REGISTRATION AND SPONSORSHIP  
INFORMATION COMING SOON!!**

*Call Sylvia Pizzini-Cantu at the Council office,  
804-1155 for more information.*



## Government Affairs Update

By: George Peck, Vice President Government Affairs

I certainly picked a good year to be Vice President, Government Affairs for the Real Estate Council. Over the past several months you've all heard about and had to deal with new ordinances such as the new and vastly unimproved tree ordinance, the rough proportionality ordinance and several military initiatives such as dark sky lighting and sound attenuation. In addition, we have on going topics such as the South Edwards Plateau Habitat Conservation Plan and numerous policy changes within the Planning and Development Services Department to deal with. With all these new ordinances, changes and regulations you might be thinking "Well that should be about it. They've changed everything so what else is there?"

Well, have I got news for you. There are a few new things on the horizon that we are keeping up with as well as trying to get prepared for the upcoming Legislative Session. The next really big issue that we will have to deal with is a pending revision to the drainage ordinance and the fee in lieu of detention costs. Several of us met with Majed Al-Ghafry and Nefi Garza on Friday, July 30, 2010 to begin these discussions. This topic has been on the radar for a couple of years, but it appears it will now begin to move forward. Several RECSA/GSABA/PEPP members have volunteered to work on this issue. A task force has also been formed and is standing by to work with the county on their new street acceptance and maintenance program should the need arise. We are also following the biennial UDC amendment process. At this stage there are 315 proposed amendments which are working their way through TAC and are slated for approval by City Council in November or December.

In addition to all these specific issues and specialized task forces that are put together we also have our formal monthly Development Process Task Force meeting where we discuss process

issues and proposed changes with Development Services, Public Works, SAWS and any other agency. This meeting is held on the second Friday of every month at the One Stop Center. We have quarterly meetings with both SAWS and CPS to discuss any issues with them as well. The next Quarterly meetings are in late October and are typically open to members of both RECSA and GSABA.

Along with these formal meetings, we have devoted our time to a few ad-hoc meetings with Assistant City Managers Sharon De La Garza, who oversees Public Works and Parks, and TC Broadnax, who oversees Planning and Development Services. We have discussed topics such as level of service and how they and we can do a better job at coordinating with each other in order to make the development process smoother and more certain.

It's hard to tell what the Legislative Session has in store for us at this stage. One can bet that issues such as transportation funding, tax issues and county regulatory authority will be brought forward. There could also be quite a shake up at the state level as the Governor is up for re-election, 15 of 31 seats are up for re-election in the Senate and all 150 seats are up for re-election in the House. I'm sure we'll hear more on this as we get closer to January.

Our annual Government Affairs update will be held on December 7, 2010, 7:30 a.m., at the Petroleum Club to recap all these issues and others which may come up. Please plan to attend for an update and hopefully a better picture of what may be happening at the 2011 Legislative Session.

### WE NEED YOU!

There are numerous boards, commissions and task forces in San Antonio and Bexar County which impact our industry. As openings arise on these boards, RECSA is often asked to submit names of qualified individuals to serve. Some have specific residency or expertise requirements, including professional as well as community/neighborhood representation.

We are currently in need of a commercial property representative to serve on the task force that is charged with reviewing the International Property Maintenance Code.

If you would be willing to participate on a board, commission or task force, please contact Martha Mangum in the RECSA office, [martham@recsanantonio.com](mailto:martham@recsanantonio.com)

## Status of Vested Rights in San Antonio

By: Rob Killen, Kaufman & Killen, Inc.

Imagine that you have an ongoing development in the City of San Antonio (“City”) that is the subject of a Vested Rights Permit (“VRP”) or Rights Determination (“RD”). Your development plans were prepared based on the rules in effect when you started the project. Your development has been consistent with your original plans. However, the next time you apply for a permit, the City informs you that your VRP or RD has expired and you will have to get a new one before the City will issue the next permit. You also learn that the review time can be several months, and that your project will be delayed until a new RD is approved. This is a problem that many developers are now facing.

With the adoption of many new ordinances by the City, vested rights have become more important than ever. However, changes in the vested rights recognition process have heightened uncertainty and created delays in the development process for ongoing projects. In addition, the City Attorney’s Office has intensified its scrutiny of requests for recognition of vested rights. Developers should regularly review the status of a project’s vested rights with their legal and engineering consultants to prevent unnecessary delays.

Chapter 245 of the Texas Local Government Code provides that (with some exceptions) the City may only apply the rules in effect when a project began to applications for future permits for that project. A project may lose vested rights if the project changes or if it becomes dormant. A project may be dormant if there is no permitting activity or significant expenditures within a 5 year period.

The City process to recognize statutory vested rights requires a property owner to submit an application, filing

fees, and supporting permits to the City. Under the City Code, staff has 20 working days to review the application and make a determination as to whether a project has vested rights. The application is reviewed by both Planning & Development Services staff, and the City Attorney. Vested rights have been exercised in San Antonio to protect projects against changes in requirements for tree preservation, landscaping, buffering, and building setbacks.

There have been 2 significant changes in the RD review process:

- 1) The City has adopted a 5 year limit on recognition of rights which is being applied retroactively to existing VRPs and RDs that previously had no expiration date; and
- 2) An RD is now required for each phase of a project.

The other major obstacle that developers face is that City staff currently has an average RD review time of about 72 days.

The impact of these changes and the lengthy review time means that an ongoing project which has relied on a VRP/RD may suddenly find that the VRP/RD has expired. The project will be on hold while the developer prepares an application, assembles the supporting documentation, and waits for the City to review it. The developer is also exposed to the potential risk that the City will refuse to recognize vesting for the project. To avoid such potential delays or loss of rights, developers should contact their engineer and attorney to take the necessary actions to protect a project’s vested rights.



Join the Real Estate Council Today!

The Real Estate Council of San Antonio is the advocate for owners and professionals in the real estate industry, influencing action and supporting efforts to ensure a healthy economy and enhanced quality of life in the San Antonio area.

There are three levels of membership in the Council:

- Patron
- Corporate
- Individual

At each level, one can benefit from a wide range of services and opportunities for participation, including MCE credit opportunities, regular membership meetings and networking opportunities, bi-monthly newsletter and industry representation before legislative and regulatory bodies.

For more information about the Real Estate Council of San Antonio and its activities, contact the Council office at 210-804-1155.

## RECSA Executive Committee

**PRESIDENT:**

*Brenda Kelly Rowe  
Jacobs*

**PRESIDENT ELECT:**

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SiGa International*

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**VICE PRESIDENT/GOVERNMENT AFFAIRS:**

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### Council Monitor Sponsorship Opportunities Available

Sponsorship Opportunities are available for all of the upcoming 2010 Council Monitor newsletters. If you are interested in sponsorship please contact: **Sylvia Pizzini-Cantu at the Council office, 210-804-1155.**

### The Real Estate Council of San Antonio

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