

Mission Statement:

RECSA is the advocate for owners and professionals in the real estate industry, informing and educating its members and community leadership while supporting efforts to ensure a healthy economy and enhanced quality of life in the San Antonio area.

RECSA is proud to represent the industry that:

- Employs over 120,000 people in San Antonio.
- Has an economic impact of \$22 billion.
- Is the 2nd largest economic generator, second only to the healthcare industry.
- Has a local payroll of \$4.8 billion each year
- Generates nearly \$168 million in local tax revenue



RECSA President's Message

By: *Michael Moore*
2013 President

Well, it's 2013, and the year is off to a roaring start. The 83rd Legislature is in session, and this one looks to be another one full of opportunities! But wait, I'm getting ahead of myself.

First, I think it only appropriate to recognize Dean Bundrick, our immediate Past President, for the outstanding job he did in leading our organization in 2012. Membership is up, participation in events is up, and although Dean has been active in our industry for many years (some say decades) his involvement in industry issues is fairly recent. In his role as President, Dean made an outstanding effort to understand these issues and to work diligently in resolving them.

Dean wrote in his first 2012 Council Monitor article that he considered his commitment to be for two years, one as President Elect and one as President. Following in the footsteps of many excellent leaders before him, Dean has extended his commitment to the industry by agreeing to extend his service, and will serve as Chair of the Economic Development Committee for 2013. If you see Dean, be sure to thank him for his continued involvement.

I would also like to express my gratitude for being selected to serve as the 2013 President of the Real Estate Council of San Antonio. I truly believe that our organization provides incredible value to our industry and to the economy of San Antonio by helping safeguard property rights and continuing to moderate regulation. I look forward to the upcoming challenges of this year, and request your assistance in meeting them.

Ok, you're waiting to hear about the opportunities ahead of us. As an organization devoted to advocacy for our industry, the 140-day legislative session that occurs every two years can be some of the most demanding days we endure. Not only do they require our constant attention, but they also require a tremendous amount of personal time from our members, time spent understanding proposed legislation, time spent in Austin testifying before committees, and time spent talking to our legislators to share our concerns and offer alternatives.

I know. You want to know what some of our opportunities might be, and as luck would have it, some of them are listed below;

- Money, as in budget shortfall or surplus, whoever happens to be talking. The legislature periodically moves money from one pocket to the other to resolve issues of too little/too much money. Mostly, too little money.
- Money, as in TxDOT. TxDOT does not have funds for additional highway projects once the ongoing projects are finished. In addition, they will not be able to fund ongoing maintenance without ending diversions from the highway fund and probably considering a gasoline tax hike.
- Money, as in school funding. The \$5 billion taken from public education in 2011 was the impetus for over half the school districts in Texas to file a lawsuit against the State, claiming that the school funding plan was unconstitutional. The verdict is expected to be rendered after the session is over and at least one special session is predicted to be necessary to resolve this issue.

Continued on page 2.

Welcome New Members

We are pleased to announce the following new members:

PATRON Upgrade

MDN Architects

Barry Middleman

CORPORATE

Capital Title of Texas

Jack Rogers

Falcon International Bank

Hector Hornedo

Kruger Carson PLLC

Bradley Carson

MSN Architecture & Interiors

Brent Anderson

INDIVIDUALS

Asher Reilly

Charlie Malmberg

Vanessa Middlebrook

Lawrence O'Connor

Heather O'Gorman

Thanks to all of our renewing members!!!

RECSA President's Message Continued

- Money, as in the Texas Water Plan. The Plan, which is the 50 year water plan for Texas, has come to be one of the most pressing issues for the state due to the drought in 2011-2012, the worst single year drought in 116 years. Between \$1 billion and \$2 billion will be needed to fund the Plan, and that money must come from the Rainy Day Fund, requiring 2/3 of the Legislature to approve the release of funds. The long term costs of the Plan are expected to be \$53 billion.
- Money, as in health services. Because Governor Perry refused to accept federal funds from Obamacare, more than an additional \$140 million will be needed for women's health care. In addition, more funds will be needed to fund the Medicaid programs for the poor, as this segment of the population continues to grow.
- Additional regulatory powers, as in expansion of county powers. Bills have already been filed to allow the city and county governments to merge into one jurisdictional entity; there will be pressure to give additional powers to governing bodies having military bases within their jurisdictions; and there will be the ever present attempts

to grant counties more land use control.

In most legislative sessions, over 6,000 bills will be filed, with roughly 10% to 15% of them having the potential to affect our industry. This session may be very unique in that regard, as the estimated total filings by the filing deadline of March 8th will be between 4,000 and 5,000. As always, these numerous opportunities will require diligence and action from our members to ensure that we protect our industry.

On March 6, the Real Estate Councils of Texas will meet in Austin to participate in the Commercial Real Estate Lobby Day, and we hope to have strong attendance from across the State. Throughout the session, we will have numerous opportunities to provide oral testimony to the various committees considering bills of interest, and we will also be asking for letters of support from our membership on some of these matters. Please take the time to participate in the legislative process in whatever manner you might be able.

In conclusion, for which you must be grateful, please see page 8 for a list of the members of the 2013 Executive Committee, along with their areas of responsibility. If you have a chance, be sure to thank them for their time and service.

Congratulations to Larry G. Heimer, P.E.



***2013 Philip M. Barshop
Founder's Award Recipient***

Texas Courts Support Private Property Rights

By: Daniel Ortiz, Brown & Ortiz, PC

Texas Courts have recently provided additional clarity to key issues affecting property development rights, specifically those associated with vested (“grandfathered”) rights. According to Chapter 245 of the Texas Local Government Code, once a permit applicant files an application with a city (or other necessary regulatory agency) for the initial permit required for a development project the city’s applicable regulations are essentially “frozen” as they existed at that time. In short, a city cannot enforce regulations adopted after the project’s vesting date.

Bitterblue, Inc., through its attorneys, Mark Murray and Brown & Ortiz, P.C., filed suit against the City of San Antonio in 2006, after the City Council denied acknowledgment of vested rights for the Rogers Ranch development project. The Fourth Court of Appeals ultimately ruled in the developers’ favor in August 2012 (the “Rogers Ranch Case”). This local case also reinforced crucial vested rights issues previously decided by the Third Court of Appeals in Austin in 2011 (the “Harper Park Case”).

In the Harper Park Case, the Court clearly established that for purposes of vested rights under Chapter 245, the term “project” refers to a “single endeavor reflected in the original application for the first permit,” rather than, as some cities have argued, individual components of the overall development. In this instance, a preliminary plan was applied for/approved by the City of Austin in 1985, which generally labeled a 98-acre property as a mixed-use development of “Condo, Office, Commercial.” The plan labeled individual tracts with specific land uses; most relevant for the case, a 6-acre tract within the plan was labeled as “office.” In 2009, when a new owner applied for a plat to build a hotel on the 6-acre tract, Austin denied vested rights dating back to the 1985 preliminary plan stating that the “project” had changed from office to hotel. Ultimately, the Court determined Chapter 245 should be read broadly to encompass the development “as a whole” in the initial preliminary plan permit and *not* the 6-acre tract “viewed in isolation.” Also, because Austin’s 1985 regulations defined “commercial” development as any use besides

single family residential, the developer had the right to develop a hotel or office (equally) as both were encompassed by the “commercial” label.

In the Rogers Ranch Case, Bitterblue sought acknowledgement of vested rights as of 1993 from the City of San Antonio based on a “Water Report/Commitment” with SAWS to provide water service to a 1,780-acre development. The City denied the acknowledgment arguing, in part, that a Water Report/Commitment did not constitute a “permit” for purposes of establishing rights because Chapter 245’s definition of “permit” in 1993 did not contemplate contracts/agreements with utility purveyors. The Court ruled that, unless otherwise stated, the “entirety of Chapter 245” is meant to apply *retroactively*, including the amendment to the definition of a “permit” adopted in 2005 to include contracts or other agreements with water/wastewater utilities. In short, the Court confirmed that a Water Report/Commitment (and a Sewer Report/Contract) constitutes a “permit” for vesting purposes.

The Court then made clear that the person/entity attempting to enforce vested rights does not need to be the original development permit applicant; this conclusion is based, partially, on the Court’s (re)affirmation that vested rights “run with the land” and not necessarily with a specific property owner or permit holder. Perhaps most importantly, the Court restated and accepted for San Antonio’s purposes the above ruling in Harper Park: “for purposes of vested rights under Chapter 245 [a “project”] is the single endeavor reflected in the original application for the first permit in a series, rather than individual components of the larger, original endeavor that could subsequently require separate permits.”

Both the City of Austin and San Antonio filed petitions for review (appeals) for their respective cases with the Texas Supreme Court; both appeals were denied. Accordingly, the rulings in Harper Park and Rogers Ranch are *law* regarding vested rights pursuant to Chapter 245.

Mark Your Calendar!!!

Main Event XXII - Fight Night

Thursday, March 21, 2013

**Henry B. Gonzalez Convention Center
Ballroom A**



Event Chairman:

Eric Abati, ATKG, LLP

Auction Chairman:

Aaron Parenica, Bury+Partners

For table information call RECSA offices, 804-1155

**A Presentation of
The Real Estate Council of San Antonio
and Title Sponsor**

 **Bury+Partners**

Legends of the Real Estate Community

Featuring: Bob Worth, RL Worth & Associates

By: John Taylor, Communications Chair

Anyone who is looking for a great example of how to start and grow their business into one of the most successful in their market need look no further than Robert “Bob” Worth. Those of us who have worked with Bob are likely not surprised to learn that his guiding principles are: 1) to always be fair and honest, 2) live by the golden rule and 3) “leave some meat on the bone” for the other party in any transaction. These values have enabled him to lead his company, R.L. Worth & Associates, in developing and acquiring over 3.4 million square feet of real estate properties since the firm’s inception. R.L. Worth & Associates has also developed more San Antonio office properties than any other company in the last 10 years.

Bob grew up in San Antonio and graduated from the University of Texas in Austin with a degree in Accounting and Finance. That same year also marked the beginning of his 42-year marriage to his high school sweetheart, Mary. Upon graduation he worked as a CPA for seven years with Ernst and Ernst (now Ernst and Young), where he served a number of financial institution and private clients. In 1980, with a good referral and little real estate experience, he was hired as the CFO for the Robert Callaway Corporation, which developed multi-family and office properties. While working with Callaway, he had a strong desire to get involved in the construction and development areas of the company, and recalls that firm executives had to remind him regularly to get back to the financials.

In 1986, at the peak of the real estate bust, Bob was laid off

from his job. Enticed by his entrepreneurial spirit, and with only \$5,000 to his name, he started Worth Thompson Associates, a real estate investment company that would buy distressed commercial income properties. With no successful acquisitions or business income for the first two years, the Worth family was supported primarily by his wife Mary’s job as a school teacher. This time allowed Bob to help more at home with his two young children (Jordan and Clint), and in retrospect, reinforced what was most important in life. In 1988, Worth Thompson finally made its first acquisition, Grandview Shopping Center, which eventually helped spur over 700,000 square feet of acquisitions through the mid 1990’s. In 1993, the company changed its name to R.L. Worth & Associates, which has developed and acquired over two and one half million square feet of office, service center and retail properties, most of which the company still owns. R.L. Worth also provides full service property management and leasing for its portfolio of properties.

Bob previously served the Real Estate Council of San Antonio (“RECSA”) as Chairman of the President’s Council. He appreciates the group of volunteer experts and staff at RECSA who help challenge the overregulation and fee increases that developers face with regulatory agencies. He is also one of the original members of the University of Texas at San Antonio Real Estate Finance and Development Founders Council.

When not growing his company, Bob enjoys travel, hunting, fishing, skiing with family and friends, as well as playing with his four grandchildren.

Bob and Mary Worth and their children Jordan Worth Arriaga and Clint Worth



Young Guns of the Real Estate Community

Featuring: Jordan Arriaga, RL Worth & Associates

Clint Worth, RL Worth & Associates

By: John Taylor, Communications Chair

Whether it was working in the R.L. Worth offices during the summers or taking short car “cruises” to look at real estate on most family vacations, our two Young Guns, Jordan Worth Arriaga and Clint Worth, were destined to be involved in the real estate industry. They also followed in the family legacy by graduating from the University of Texas at Austin. Jordan received a Bachelor of Journalism and Business Foundations with Minor in Spanish, while Clint graduated with a Bachelor’s in Economics and Business Foundations and a Minor in Spanish.

As a requirement to prove their “Worth”, Jordan and Clint knew the conditions. They had to work first at another company for 10 years – or support themselves while earning an MBA. Jordan chose the first path and went to work in Houston right out of college in real estate mortgage banking at Northmarq Capital, and subsequently L.J. Melody/CB Richard Ellis. Right at the 10-year mark, she was given the opportunity to move back to San Antonio and join R.L. Worth & Associates in financing and lender relations for all properties.

After nearly 18 months as a Market and Financial Analyst at Trammell Crow Company, Clint decided to obtain his MBA in International Business from UTSA. Upon completion, Clint joined R.L. Worth & Associates and is involved in ground up development and acquisitions. Both Jordan and Clint’s first

joint development project was Oaks at University Park (a three building 285,000 square foot office campus), where they were able to learn more about development while making contributions from their past experiences.

Clint and Jordan have primarily been involved in Real Estate Council San Antonio by attending breakfast meetings and golf tournaments. They would each like to get more involved with RECSA this year (hint...Communications Committee?) and hope to eventually serve the Council in a leadership capacity.

When he is not working, Clint likes to spend time with his wife, Jessica and baby girl. He also enjoys flying, fishing, hunting and skiing when he gets the chance. Jordan balances work with raising three boys with her husband, Brian, and enjoys traveling and spending time with family doing any outdoor activity. She also enjoys entertaining and is tapping into that interest by chairing the San Antonio Children’s Museum luncheon for a second consecutive year.

Jordan and Clint look forward to continuing to learn more about their business, so they can better support R.L. Worth & Associates and give their parents more time to enjoy the well-deserved fruits of their labor.

City of San Antonio Revises FILO

By: Rob Killen, Kaufman & Killen

On January 31, 2013, the San Antonio City Council approved revisions to the fee in lieu of onsite detention (“FILO”), effective April 1, 2013. The table below details the new rates and methodology.

<u>Table I: RSWMP Effective Date and Rate</u>		
Development Type/ Land Use	Rate Effective April 1, 2013 (per square foot of impervious cover)	Rate Effective December 1, 2015 (per square foot of impervious cover)
Single Family or Two Family (Duplex)	\$0.15	\$0.15
Multi Family	\$0.15	\$0.20
Industrial	\$0.15	\$0.20
Commercial	\$0.20	\$0.25
Public Facilities	\$0.15	\$0.20
Public Schools Within Loop 410	50% of proposed fee	50% of proposed fee
All bond funded school projects prior to the effective date of this ordinance are to be assessed 50% of proposed fee.		
ICRIP, per Ordinance 2011-05-12-0388	50% of proposed fee	50% of proposed fee
IDZ	No fee	No fee

Council Monitor Sponsor

you're thinking:

Underperforming properties

Complicated tax and financial reporting

Declining lease revenue



we're thinking:

Property performance analysis

Straightforward tax and financial reporting

Development of joint venture projects

*When it's costing you, Sol Schwartz & Associates
Real Estate Services helps you rethink it.*

John Gilbert, CPA

jwg@ssacpa.com

Jeff Jackson, CPA

jjj@ssacpa.com

Jeff Albrecht, CPA

jeffa@ssacpa.com

www.ssacpa.com

(210) 384 8000



Sol Schwartz & Associates, P.C.
Certified Public Accountants



Join the Real Estate Council Today!

RECSA is the advocate for owners and professionals in the real estate industry, informing and educating its members and community leadership while 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:

Michael Moore
Ironstone Development

PRESIDENT ELECT:

Rob Sult
USAA Real Estate Company

SECRETARY/TREASURER:

Brian Biggs
Frost Bank

VICE PRESIDENT/GOVERNMENT AFFAIRS:

Coy Armstrong
Bury+Partners, Inc.

GOVERNMENT AFFAIRS:

Brad Carson
Kruger Carson PLLC

Denise O'Malley
Metropolitan Contracting Company

Rob Leonhard
CDS Muery

Cynthia Stevens
Koontz McCombs

2012-2013 LEADERSHIP DEVELOPMENT:

Ruth Jordan

Tim Swan
Metropolitan Contracting Company

2013-2014 LEADERSHIP DEVELOPMENT:

Brad Carson
Kruger Carson PLLC

Brenda Kelly Rowe
Goetting Rowe Engineering

COMMUNICATIONS:

John Taylor
Jones Lang LaSalle

COMMUNITY RELATIONS:

Kim Ghez
Presidio Title

PROGRAM/EDUCATION:

Jim Akin
First American Commercial Property Group

MEMBERSHIP:

Laurie Griffith
Texas Capital Bank

ECONOMIC DEVELOPMENT:

Dean Bundrick
Orion Partners, Inc.

AT LARGE:

Gene Dawson, Jr.
Pape-Dawson Engineers, Inc.

Trey Embrey
Embrey Partners, Ltd.

Silvia Gangel
SiGa International

George Peck
Civil Engineering Consultants

Brenda Kelly Rowe
Goetting Rowe Engineering

Debbie Avery
Valero

Council Monitor Sponsorship Opportunities Available

Sponsorship Opportunities are available for all of the upcoming 2014 Council Monitor newsletters. If you are interested in sponsorship please contact: **Sylvia Cantu at the Council office, 210-804-1155.**

The Real Estate Council of San Antonio

8626 Tesoro Drive, Suite 803

San Antonio, TX 78217

Ph: 210-805-1155 Fax: 210-804-1166

www.recsanantonio.com

STAFF

Martha Mangum, Executive Director
martham@recsanantonio.com

Sylvia Cantu, Member Services Director
sylviap@recsanantonio.com

Margaret Turner, Administrative Assistant
margarett@recsanantonio.com