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Jacqui Schraad  
*Executive Director*

July 17, 2010

Chair Sullivan & Commission Members  
Planning Commission  
City of Austin  
Post Office Box 1088  
Austin, TX 78767-8865  
Sent via E-mail

**Re: Landmarks Program Interim Measures Recommendations**

Dear Chair Sullivan and Commission Members:



HERITAGE  
SOCIETY OF  
AUSTIN

P.O. BOX 2113  
AUSTIN, TEXAS 78768  
512-474-5198  
FAX 512-476-8687

The Heritage Society of Austin urges the City of Austin to use the current review of its preservation program as an opportunity to study and update Austin's policies to become a national example of effective preservation practices. However, we ask this study to be conducted in the context of recognizing historic preservation as a powerful economic driver for our City's economy. We do not oppose the interim measures to limit the number of nominations, as long as those measures are carefully constructed to retain the integrity of the program.

The Heritage Society of Austin respectfully urges you to include the following three additions as you devise a recommendation on the Interim Measures for the Historic Landmarks Program. Thank you in advance for your attention to our request.

**1. Expiration Date**

It is essential that the temporary measures be stated to expire on a date certain. HSA recommends an expiration date of Dec. 31, 2011. This date would allow adequate time for Council to act on the HLC's recommendations for program adjustments, even with delays. If no action is taken on the HLC recommendations, it would avoid another surge of end-of-year nominations.

**2. Selection Process**

A sound selection process for determining the 3 cases to be considered is vital to maintaining the integrity of the preservation program during the period of interim measures. HSA recommends the HLC receive all applications as they are submitted, rank them according to merit (based on the Landmark criteria) and consider them in descending order until a maximum of three are forwarded to Council. We propose that the initial ranking be done by an HLC committee, such as the Operations Committee.

The benefits of this approach would include HLC consideration of the three applications that best meet the criteria, which would address an issue that led to the current reconsideration of the program. It would also thwart the possibility of one commercial agent submitting the majority or all of the applications to be considered this year, which is a plausible scenario on a stackable queue approach.

### 3. Contingency Fee Prohibition

**Proposal:** Affirmatively ban all zoning cases brought on a contingency fee basis, regardless of whether the agent is a registered lobbyist or not (require the applicant to affirm on the application that no person has or will be compensated on a contingency fee basis);

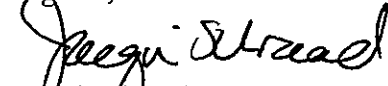
**Code Language:** Add new subsection 25-1-82(D) as follows: A record owner or the record owner's agent filing an application for a permit or approval required by this title shall affirm that no person involved in the matter was or will be compensated on a contingent fee basis or on a contingent fee arrangement.

**Rationale:** Currently, Section 4-8-8(C) of the Code prohibits a person from retaining or accepting employment to lobby on a contingent fee basis or in any manner engage in lobbying activities on a contingent fee arrangement. A similar prohibition exists in state lobbying restrictions. The public policy purpose of this type of prohibition is to discourage the speculative pursuit of matters and to take away the financial interest to an agent or lobbyist.

The current Code allows a person to pursue a change in zoning on a contingency fee basis if they do not register or act as a lobbyist. Some have engaged in a business model that charges no fees to the record owner, but takes a percentage of the taxes exempted. This means an applicant has no risk, and there is an incentive to pursue cases based on economics rather than merit. It also places an undue burden on City staff.

Thank you in advance for your attention to this issue and all your ongoing work to build a great future for our city while respecting our valued heritage.

Regards,



Jacqui Schraad  
Executive Director