

ETHICS REVIEW COMMISSION
CHAPTER 2-7 CITY CODE
COMPLAINT

AUSTIN CITY CLERK
RECEIVED
2015 AUG 27 AM 8 53

SUPPLEMENT

NAME OF PERSON(S) FILING COMPLAINT: Kent C. Anschutz

MAILING ADDRESS: 1012 Rio Grande, Austin, Texas 78701

PHONENUMBER: (512) 478-4947

EMAIL ADDRESS: [REDACTED]

PLEASE FILE A SEPARATE COMPLAINT FORM FOR EACH PERSON
COMPLAINED AGAINST.

NAME OF PERSON COMPLAINED AGAINST: Arif Panju

CITY OFFICE, DEPARTMENT, COMMISSION: Member, Historic Landmark
Commission

MAILING ADDRESS: 506 Lockhart Drive, Austin, Texas 78704

PHONE NUMBER [IF KNOWN]: (512) 659-6286

EMAIL ADDRESS [IF KNOWN]: Arif.Panju@austintexas.gov

The Ethics Review Commission has jurisdiction to hear complaints alleging violation(s) of
the following provisions:

- City Code, Chapter 2-1, Section 2-1-24 (City Boards, Conflict of Interest and Recusal)
- City Code, Chapter 2-2 (Campaign Finance)
- City Code, Chapter 2-7 (Ethics and Financial Disclosure), except for Article 6 (Anti-lobbying and Procurement)
- City Code, Chapter 4-8 (Regulation of Lobbyists)
- City Charter, Article III, Section 8 (Limits on Campaign Contributions and Expenditures)

PLEASE LIST EACH ALLEGED VIOLATION OF THE ABOVE CITY CODE AND
CHARTER PROVISIONS SEPARATELY ON THE FOLLOWING PAGES.

I.

SECTION OF CHARTER OR ORDINANCE VIOLATED: Sec. 2-7-64 (A) & (B), City of Austin Code

DATE OF ALLEGED VIOLATION: August 24, 2015

II.

SECTION OF CHARTER OR ORDINANCE VIOLATED: Sec. 2-7-63 (A), City of Austin Code

DATE OF ALLEGED VIOLATION: August 24, 2015

III.

SECTION OF CHARTER OR ORDINANCE VIOLATED: Sec. 2-7-62 (B), City of Austin Code

DATE OF ALLEGED VIOLATION: August 24, 2015

ACTIONS ALLEGED TO BE A VIOLATION:

See documentation and supporting materials attached to original complaint and supplemental documentation and supporting materials attached to this supplemental complaint, incorporated herein by reference.

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED:

Exhibits “C-1” through “C-7” attached to original complaint;
Exhibit “C-8”: Historic Landmark Commission Agenda for August 24, 2015;
Exhibit “C-9”: Executed Attendance Sheet (Conflict of Interest Affirmation) for Historic Landmark Commission, August 24, 2015;
Exhibit “C-10”: Transcript of August 24, 2015, Historic Landmark Commission (Panju discussion related to Zoning Case No. C14H-2014-0014) and web link to video of same;
Exhibit “C-11”: Web link to video presentation made to Historic Landmark Commission on August 24, 2015, featuring Panju as a spokesperson.

[IF MORE ROOM IS NECESSARY, PLEASE CONTINUE ON A BLANK PAGE
USING THE SAME FORMAT]

ALL THE STATEMENTS AND INFORMATION IN THIS COMPLAINT ARE TRUE
AND FACTUAL TO THE BEST OF MY KNOWLEDGE.

DATE: 8-27-15

Kent C. Anschutz
COMPLAINANT'S SIGNATURE

KENT C. ANSCHUTZ
PRINT NAME

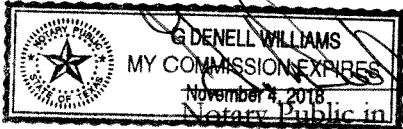
STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged, sworn to and subscribed before me by

Kent C. Anschutz

On the 27 day of August, 2015 to certify which witness my hand and official seal.



G. Denell Williams
Typed or Printed Name of Notary

THIS FORM MUST BE SUBMITTED TO THE OFFICE OF THE CITY CLERK.

DOCUMENTATION AND SUPPORTING MATERIALS FOR COMPLAINT

SUPPLEMENT

Mr. Arif Panju is a Member of the City of Austin Historic Landmark Commission. Commissioner Panju, by virtue of his appointment to the Historic Landmark Commission, is a City Official as defined by Sec. 2-7-2(3) of the City of Austin Code.

On August 24, 2015, Commissioner Panju again attended the regularly scheduled meeting of the Historic Landmark Commission. The posted agenda for the meeting (**Exhibit "C-8"**) again included Zoning Case No. C14H-2014-0014 (Item 7.A.1.), styled as Bluebonnet Hills Historic District. Prior to the meeting, Commissioner Panju again executed the Attendance Sheet (**Exhibit "C-9"**), as required by Sec. 2-1-24(B) of the City of Austin Code.

Sec. 2-7-64 (A) & (B) address disclosure of conflicts of interest. They provide:

"A City official shall disclose the existence of any substantial interest he may have in a natural person, entity or property which would be affected by a vote or decision of the body of which the City official is a member...

"To comply with this section, a councilmember or unsalaried City official, prior to the vote or decision, either shall file an affidavit as required by Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments) of the Local Government Code or, if not so required, shall publicly disclose in the official records of the body the nature and extent of such interest."

Commissioner Panju executed the attendance sheet (an official record of the Historic Landmark Commission), under the column stating "If you have **NO** conflict of interest on any agenda item, sign here." (emphasis in original).

Exhibits "C-3" through "C-6" clearly show that Commissioner Panju has a substantial interest (as defined by Sec. 2-7-2(11)) in real property located within the proposed Bluebonnet Hills Historic District that if approved will subject his property to additional zoning regulations and that he has zealously worked to defeat the approval of said District.

Sec. 2-7-63 (A) addresses prohibitions on conflict of interest. It provides:

"A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a substantial interest;"

Sec. 2-7-2 (4) defines "Decision" as:

"DECISION means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other City board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body."

Commissioner Panju not only again failed to recuse himself but again instead opened and fully participated in a discussion regarding the Bluebonnet Hills Historic District. As the transcript and video of the meeting demonstrate (**Exhibit "C-10"**), Commissioner Panju attempted to justify his admitted participation in a vote and decision on the matter at the July 27, 2015 meeting, attempted to explain away his substantial interest in affected real property (in contravention of clear definitions provided in Sec. 2-7-2) and proclaimed that he would not recuse himself on the matter but merely "abstain". This led to city staff calling the city legal department regarding the propriety of his action which apparently went unanswered.

Sec. 2-7-62 (B) addresses standards of conduct. It provides:

"No City official or employee shall formally appear before the body of which the official or employee is a member while acting as an advocate for himself or any other person, group or entity."

Following Commissioner Panju's comments, supporters and opponents of the proposed historic district addressed the commission. Opponents played a video (**Exhibit "C-11"**), taken of the Bluebonnet Hills neighborhood and interviews of residents speaking in opposition to the district. Commissioner Panju was interviewed repeatedly during the video speaking against the district.

In summary, Commissioner Panju, a City Official, failed to disclose a substantial interest in property affected by a matter before the Historic Landmark Commission and failed to disclose in the public record of the Commission said interest in violation of Sec. 2-7-64 (A) & (B). He further participated in decisions on a matter affecting property in which he has a substantial interest in violation of Sec. 2-7-63 (A). He further appeared before the Commission of which he is a member as an advocate in violation of Sec. 2-7-62 (B). Complainant provides this sworn supplemental complaint and prays that the Ethics Review Commission find that violations of the above mentioned Code sections have occurred and that such violations be fully prosecuted.

Exhibit C-8



HISTORIC LANDMARK COMMISSION
August 24, 2015 7:00pm
CITY HALL COUNCIL CHAMBERS
301 W 2nd STREET
AUSTIN, TEXAS

CURRENT BOARD MEMBERS:

____ *Madeline Clites*
____ *Mary Jo Galindo*
____ *Grace McKenzie*
____ *Terri Myers*
____ *Arif Panju*

____ *Emily Reed*
____ *Blake Tollett*
____ *Michelle Trevino*
____ *David Whitworth*

AGENDA

CALL TO ORDER

1. CITIZEN COMMUNICATION: GENERAL

The first three speakers signed up prior to the meeting being called to order will each be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

2. ELECTION OF OFFICERS

3. APPROVAL OF MINUTES

- A. May 18, 2015
- B. June 22, 2015- Corrected
- C. July 27, 2015

4. OLD BUSINESS

5. NEW BUSINESS

- A. DISCUSSION AND POSSIBLE ACTION ON PROPOSED ADDITIONAL CHANGES TO THE HISTORIC LANDMARK COMMISSION BY-LAWS
- B. APPOINTMENTS TO HISTORIC LANDMARK COMMISSION COMMITTEES
 - 1. Operations Committee
 - 2. Grants Committee
 - 3. Preservation Plan Committee
 - 4. Certificate of Appropriateness Committee
- C. APPOINTMENTS TO OTHER BOARDS AND COMMITTEES

1. Downtown Commission Representative
2. Joint Cultural Committee Representative

6. BRIEFINGS: DISCUSSION AND POSSIBLE ACTION.
None

7. PUBLIC HEARINGS

A. DISCUSSION AND ACTION ON APPLICATIONS FOR HISTORIC ZONING, DISCUSSION AND POSSIBLE ACTION ON APPLICATIONS FOR HISTORIC DISTRICT ZONING APPLICATIONS, and REQUESTS TO CONSIDER THE INITIATION OF A HISTORIC ZONING CASE

1. C14H-2014-0014

Bluebonnet Hills Historic District

Roughly bounded by Annie Street on the north, East Side Drive on the east, Leland Street on the south, and Brackenridge Street on the west

Council District 9

Applicants: Michele Webre, Bluebonnet Hills Historic District Committee

City Staff: Steve Sadowsky, Historic Preservation Office, 974-6454

Staff Recommendation: Review and recommend the entire application with the comments from the Austin Green Builder program, and additional recommended changes to the design standards proposed by the nominating committee in response to citizen input.

NOTE: There is a valid petition against the designation of the district.

2. C14H-2015-0082

Rainey House

3941 Balcones Drive

Council District 10

Applicant: Phoebe Allen

City Staff: Steve Sadowsky, Historic Preservation Office, 974-6454

Staff Recommendation: Recommend historic zoning.

3. C14H-2010-0006

Castle Hill Historic District

Roughly bounded by W. 6th Street on the south, Baylor Street on the west, W. 12th Street on the north, and Blanco Street on the east.

Council District 9

Proposal: Modify the District Preservation Plan with regard to the applicability of Article 10 Compatibility Standards to certain properties.

Applicant: City of Austin

City Staff: Steve Sadowsky/Jerry Rusthoven, Planning and Zoning Department.

Staff Recommendation: Modify the District Preservation Plan as proposed.

4. C14H-2015-0002

414 Waller Street and 1101 E. 5th Street

Consider the additional buildings at the Pine Street Station site for historic zoning.

Council District 3

Exhibit c-9


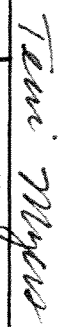



HISTORIC LANDMARK COMMISSION

CITY HALL 301 WEST 2ND STREET AUSTIN, TEXAS

Date: August 24, 2015; 7:00 pm

A board member has a conflict of interest if City Code Chapter 2-7 or Local Government Code Chapter 171 prohibits the board member from taking action on a vote or decision before the board.

By signing below, I certify that I was in attendance at this meeting and that I meet the residency requirement and certify that I have disclosed whether I have a conflict of interest related to any agenda item, and I agree not to participate in a discussion, deliberation, or vote on an agenda item for which I have a conflict of interest.

NAME OF BOARD MEMBER	If you have <u>NO</u> conflict of interest on any agenda item, sign here.	If you <u>have a conflict of interest</u> , sign here and identify the agenda item in the next column.	Agenda item number for which you have a conflict of interest.
Madeline Clites		<i>Madeline Clites</i>	C144-2015-0008
Mary Jo Galindo			
Chantelle McKenzie			
Terri Myers			
Arif Panju			
Alexander Papavasiliou			
Emily Reed		<i>Emily Reed</i>	7.A.1, 7.D.4, 7.D.5
Blake Tollett			
Michelle Trevino			
David Whitworth			

OFFICIAL COPIES

Exhibit C-10

**Transcript from August 24, 2015 Meeting of the
Historic Landmark Commission**

Item 7: Public Hearings

Agenda item 7A-1: C14H-2014-0014 – Review and recommend the entire application with the comments from the Austin Green Builder program, and additional recommended changes to the design standards proposed by the nominating committee in response to citizen input.

[8:04 PM]

>>Steve Sadowsky: So that takes us to our first public hearing which is [Item 7A-1] C14H-2014-0014 the Blue Bonnet Hills Historic District. And I think before we get started I should ask if any of the commissioners wish to recuse from this case.

>>Emily Reed: I'll be recusing from this case just to avoid any appearance of not being able to be impartial due to my interest in the case.

[8:04 PM]

>>Arif Panju: [Asks question about Castle Hill's postponement.] I do have a comment to make and simply, I live in Blue Bonnet Hills and if you read the July meeting you'll remember that before you open any public discussion I'd asked a simple question, a series of questions related to why it was on the agenda since there's three votes, Council has already voted on it, people voted for and against it, and Council was told that the Historic Landmark Commission recommended this.

And my question was simple, I just wanted a commitment from staff that if this is going to be subject to a fourth vote that perhaps Council should be advised as to why the prior recommendation and first three votes were invalid and if there are any legal reasons why we need to have a fourth vote. They're our representatives and they need to know. Sadly, due to that discussion one of the supporters of Blue Bonnet Hills filed an ethics complaint against me and raised a conflict of interest because I live in Blue Bonnet Hills. I think my property constitutes 0.83% of the whole area. That's remote by any standard. But they take issue with the fact that I've engaged in opposition which I view as a cynical attempt to squash because of my view point, my speech, my position. I think that's cynical. I think that's asking government to do your dirty work because you disagree with someone. And I believe I simply voted on a motion to postpone that Commissioner Reed had made. Commissioner Reed is a consultant on that project. I don't think she recused herself that time. I don't believe she had an ethics complaint filed against her though. But since this was filed against me, I'm going to do something and before I articulate it, I think it is important to talk about conflicts. Commissioner Reed mentioned that she had one and she properly recused herself. I think there was two other conflicts on here. Respectfully, Commissioner Myers' name appears 109 times on the application at once on every single survey. She's given permission for the group to use her surveys. I find that to be a problem that's work product and just the process in itself which I think jeopardizes city staff and puts them in a situation where there's ethical problems. They're supposed to be impartial and independent under the city code but they're forced to give a recommendation and I think there was a recent homeowner neighborhood meeting where a letter went out saying please come to learn about the benefits of a LHD. I don't think that's Mr. Sadowsky's fault. He's passionate about preservation. He's an advocate for it. But it's a complete failure in the leadership of the Planning and

Development Department to put him at the center of this and really an indictment of that process. There needs to be impartial administration. This is a policy issue, it involves land use, it's contentious. You've got preservation involved and the City is interested in it. You've just got to have a disinterested party. And so to that end, and because I feel that there's folks in the proponents of this camp that are seeking to intimidate me at the Ethics Commission which I think is completely frivolous, I'll use this as an opportunity not to recuse myself because I don't have a conflict, my vote is, my interest is remote and the Code contemplates remote interest, they're not conflicts of interest and anything under 1% is just remote. It's ridiculous to think otherwise. But I think this is a good opportunity just to listen to the discussion. But I won't engage in it and I won't vote on it but I will hear it and I won't recuse myself as stating that I have a conflict because I don't. But I do think that any fair minded person in Austin should watch and see what it looks like when you have new voices come up. What it looks like when folks that are politically connected try to silence certain people based on their view point. View point discrimination slams straight into the First Amendment. It's not proper. And just to see what it looks like, I'll remain silent throughout the whole discussion. I'll just put this right here. [Places card on dais] And when we're done we'll take it down. It says Silenced for Demanding Transparency. And I do hope that Council is put on notice as to why there were three prior votes, what's wrong with them, and why we need a fourth vote. It's something they need to know, they don't know yet, the last thing they heard is that this is recommended. And obviously it's not since we're here again today. So with that, I will allow Chair Galindo to open the public discussion if she wants to push the green go button for the fourth time now.

[8:09 PM]

>>Steve Sadowsky: Well, actually let me ask this, Commissioner, so you are not voting on this?

>>Arif Panju: I'm not voting on this.

>>Steve Sadowsky: Ok, then that leaves us with a dilemma because we don't then have a quorum vote.

>>David Whitworth: I think he's saying he'll abstain.

>>Arif Panju: I'm abstaining.

>>Steve Sadowsky: Still we don't have a quorum. We need six.

>>Arif Panju: We have six to hear it. I'm just not going to discuss it and I'm going to abstain from the vote. An abstention is part of a quorum. In fact I think the second historic commission vote on this item included an abstention. So that counts as someone sitting and hearing it. So we do have a quorum.

[8:10 PM]

>>David Whitworth: So, we could hear it but we would still only have a max of five possible votes. So that would be.... it would fail then. Well, it would be a quorum but it would be a failed vote.

>>Arif Panju: Right. You wouldn't have enough votes to get the desired outcome, that's possible. But you would have a quorum.

>>Steve Sadowsky: If we don't have enough people voting for a quorum vote which is the legal requirement.

>>Arif Panju: My vote is to abstain from the vote. I'm hearing it. You need a quorum for a hearing.

>>Steve Sadowsky: Well, let's put this on last and we'll get a hold of the law department and see what they say about this. From my discussion today with them six votes is necessary for anything. So even if it's five to one or...

>>Arif Panju: It would be 5-0-1.

[8:11 PM]

>>Steve Sadowsky: ...that's a failed vote. And there's no recommendation at that point. We can hear the case tonight, but there's no, the vote is not going to be legal.

>>Arif Panju: Well, the past three weren't legal for legal reasons, we're simply asking that Council be notified of that and I hope that happens. But for the purposes of this hearing there is a quorum unless Commissioner Myers recuses for her conflict with the surveys.

>>Terri Myers: I would like to address that when appropriate.

>>Steve Sadowsky: Just go right in.

>>Terri Myers: I will not recuse myself from the vote on this. The last time that I worked for the Fairview Travis Heights Neighborhood Association and conducted a survey more than seven years ago. And I did not make recommendations at the time as to what might be or what might not be a historic district or potential historic district. I've not been involved in any of the work that's brought Blue Bonnet Hills to our attention here at the commission and I will not recuse myself. I

have an interest in it and my interest is a personal preservation advocate but not as a person who's actively working with the neighborhood.

[8:12 PM]

>>Arif Panju: Right. I think the bottom line is that your work product was, is being used by them.

>>Terri Myers: They had a new survey done. I have no idea what criteria they used or I wasn't involved in any of the discussions about what constituted contributing or non-contributing properties in the district.

>>Arif Panju: You're free to raise your own conflicts. I will simply note that your name appears 109 times in their application. And I'm not the one to make that recusal for you and perhaps that's a conversation you need to have with the applicant. I'm simply highlighting something pretty crystal clear and that's a direct contrast with what they feel is not a conflict using a commissioner's surveys versus with what they think is a conflict, a differing view point.

[8:13 PM]

Posted on City of Austin's Historic Landmark Commission 2015 Meetings webpage under "Play Video"
http://www.austintexas.gov/cityclerk/boards_commissions/meetings/31_1.htm

Commissioner Panju discussing Bluebonnet Hills Historic District:
Item 7A-1 (Part 1 of 2) at 0:00-9:04
<http://austintx.swagit.com/play/08242015-1094/2/>

Exhibit C-11

VIDEO LINKS OF 8-24-15 HISTORIC LANDMARK COMMISSION MEETING
Re: BLUEBONNET HILLS HISTORIC DISTRICT (Item 7A-1)

Posted on City of Austin's Historic Landmark Commission 2015 Meetings webpage under "Play Video"
http://www.austintexas.gov/cityclerk/boards_commissions/meetings/31_1.htm

1. Commissioner Panju giving testimony by a film shown during meeting called "The Controversial Effort to Rezone Blue Bonnet Hills – A Look on the Inside Part 1": Item 7A-1 (Part 2 of 2) at 47:42 to 53:27
<http://austintx.swagit.com/play/08242015-1094/2/>
2. YouTube link to Commissioner Panju's "The Controversial Effort to Rezone Blue Bonnet Hills – A Look on the Inside - Part 1":
<http://youtu.be/oSjaofCGmfg>