

**To: Mayor’s Task Force on Preserving Dynamic Neighborhoods**

**Fr: Amy Kastely**

**Re: Bullet Points of Comments at April 1, 2015 Community Meeting**

Thank you to Susan Sheeran for asking that I submit the “Bullet points” of my comments and to the rest of the Task Force members at the April 1<sup>st</sup> meeting, who invited me to distribute these points to all Task Force Members.

My comments addressed three points:

**1. “Review Current Policies”**

Given the Task Force Goal of “Identify policies and programs that encourage investment in inner city neighborhoods but minimize or prevent displacement of people or adverse impacts related to history, culture, and quality of life of unique neighborhoods,” I had assumed that the first of the Task Force’s five “Purposes”—“Review current policies”—meant a review of current City Ordinances and policies to see how they do or do not “encourage investment ... but minimize or prevent displacement of people or adverse impacts related to history, culture, and quality of life...” I thought this would be an important contribution that the Task Force could make to public discussion of the changes our inner city neighborhoods are experiencing. I believe that the following current Ordinances and policies are accelerating change that does displace people and adversely impact the history, culture, and quality of life in those neighborhoods:

- a. The Vacant Building Ordinance
- b. Code compliance policies and practices that encourage anonymous reporting and concentration of enforcement in low income inner city neighborhoods
- c. Historic Preservation provisions of the UDC:
  - 1) 35-602. (City Historic Preservation Officer) – no requirement of expertise in cultural preservation
  - 2) 35-606. (Designation Process for Historic Landmarks) – making it extremely difficult to obtain historic landmark designation without the consent of the owner.
  - 3) 35-607(b) (Designation Criteria for Historic Districts and Landmarks) – This provision is good inasmuch as it clearly identifies the following criterion: “Its value as a visible or archeological reminder of the cultural heritage of the community” yet both the Office of Historic Preservation and the Historic Design and Review Board seem not to understand nor give sufficient weight to this item. Perhaps better training on preservation of cultural heritage would be helpful
- d. UDC 35-421 (Zoning Amendments) This provision recognizes a protest to a change in a neighborhood or Community master plan and related zoning provisions only if “the owners of at least twenty (20) percent of either the area of the lots or land covered by

the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet therefrom.” Neighborhood and Community master plans are adopted after consultation with the entire neighborhood, and a zoning change will affect the entire neighborhood. (See 35-420) The protest process should allow for protest by any neighborhood or community resident.

- e. Building Standards Board that makes demolition orders contingent on an owner’s financial ability to make repairs without the City providing a small loan program for homeowners faced with homelessness.
- f. Historic Design and Review Commission that appears not to understand the cultural preservation provisions in the UDC.

## **2. Significance of the “Residential Income Segregation Index” to the Work of the Task Force.**

The Draft Report, in its “Key Indicators” Section, articulates an apparent goal of moving San Antonio from last place to first place in the Pew Research Center’s Residential Income Segregation Index (RISI). I think this is a serious mistake because of the following:

- a. If we were to list the “unique neighborhoods” in “inner city” San Antonio that have a particular “history, culture, and quality of life” (the preservation of which is central to the Task Force’s charge), most on the list would be traditionally poor and working class; most would have populations that are overwhelmingly Mexican, Mexican-American, or African-American; and the history, culture, and quality of life of these would be distinctly Mexican, Mexican-American and African American.
- b. Because of racism, in all of its forms, both past and present, economic class in San Antonio is racially marked: that is, Whites are disproportionately represented among the upper-income brackets; Mexican-Americans and Black Americans are disproportionately represented in lower income brackets. Moreover, because of the pervasive and insidious character of racism in the U.S., cultural assimilation is often a requisite for economic success for Mexican-Americans and Black Americans.
- c. Although Census information on residential segregation is obscured by the peculiarity of the Census’ “Hispanic” category, the data indicates that San Antonio also ranks high in segregation between “Hispanics” and “Non-Hispanic Whites.” Among those few major cities with a majority “Hispanic” population, San Antonio is the most segregated; among the seven major cities with a “Hispanic” population of 45% or more, San Antonio is tied for second most segregated. University of Michigan, Population Studies Center, *Racial Segregation Measures for States and Large Metropolitan Areas: Analysis of the 2005-2009 American Community Survey* (2010).
- d. Thus, for the Task Force to adopt a “goal” of economic integration for inner city San Antonio, is to privilege those policy recommendations that will facilitate migration of higher income San Antonians, who are disproportionately non-Hispanic Whites, into neighborhoods that are traditionally Mexican-American and Black-American. Thus, for

example, the Draft Report lists “explore an inclusionary housing policy for city-incented residential development” as the first of its “long-term” recommendations.

- e. This ordering or priorities surely will not preserve the “history, culture, and quality of life” of our “unique neighborhoods, unless the City first makes a concerted, creative effort to ensure that all current inner-city residents are enabled to secure culturally appropriate, historically coherent, safe, healthy, and affordable housing within their current neighborhoods.
- f. Finally, I would like to add two additional comments on this topic:
  - 1) Contrary to the remarks of at least two Task Force members at the April 1 Community meeting, the evidence that I have seen suggests that “mixed income” neighborhoods are generally unstable. See e.g. Douglas J. Krupka, *The Stability of Mixed Income Neighborhoods in America*, Institute for Research on Labor, Employment and the Economy, Discussion Paper No. 3370 (2008). Perhaps more extensive research on this question is appropriate before the Task Force finalizes its recommendations.
  - 2) Finally, it seems inappropriate for San Antonio, a city that rigorously enforced the residential segregation of Mexican-Americans and Black-Americans, would now adopt policies designed to dilute the concentration of Mexican-Americans in inner-city neighborhoods, despite increasing evidence of the health benefits of culturally distinct communities for contemporary Mexican-Americans. See, e.g. Alyssa Marie Shell, M. Kristen Peek, & Karl Eschbach, *Neighborhood Hispanic composition and depressive symptoms among Mexican-descent residents of Texas City, Texas*, *Social Science & Medicine* 99 (2013) 56-63.
  - 3) Again, perhaps more extensive research on this matter is appropriate before the Task Force finalizes its recommendations

### **3. The Importance of Outside Legal Advice**

My final point at the April 1 Community meeting was that the Draft Report suggests several points at which the Task Force has been told, by the City Attorney’s Office, that state or federal law would prohibit the City from adopting a particular policy—the discussion of the “Rezoning Option “ on page 13 of the Draft Report is one such instance. As a lawyer and a Professor of Law, I urge you to seek the opinion of an independent attorney whenever you are told that a promising policy is legally barred.

Like many other government attorneys, San Antonio City Attorney and her Assistants are in a somewhat awkward position because, while their job is to represent the “City of San Antonio,” they generally defer to the City Manager, Mayor, and City Council to decide what are the City’s interests, and, because legal rules are seldom clear-cut, the City Attorney’s perspective can limit the legal opinions rendered by that office.