



FTC GRANTS 6 MONTH DELAY OF ENFORCEMENT OF "RED FLAGS" RULE REQUIRING CITIES TO ADOPT IDENTITY THEFT PREVENTION PROGRAMS.

The Federal Trade Commission will suspend enforcement of the new "Red Flags Rule" until May 1, 2009, to give creditors (the definition of which includes **municipal utilities**) and financial institutions additional time in which to develop and implement written identity theft prevention programs. The Red Flags Rule was developed pursuant to the Fair and Accurate Credit Transactions ("FACT") Act of 2003. Under the Rule, financial institutions and creditors (such as city utilities) with covered accounts must have identity theft prevention programs to identify, detect and respond to patterns, practices, or specific activities that could indicate identity theft. Federal law defines a creditor to be: any entity that regularly extends, renews, or continues credit; any entity that regularly arranges for the extension, renewal, or continuation of credit; or any assignee or an original creditor who is involved in the decision to extend, renew, or continue credit. Accepting credit cards as a form of payment does not, in and of itself, make an entity a creditor. Some examples of creditors are utility companies, finance companies, automobile dealers, mortgage brokers, telecommunications companies, and non-profit and government entities that defer payment for goods or services.

During the course of the FTC's recent outreach and educational efforts regarding the Rule, FTC staff discovered that some industries and entities subject to the Rule were uncertain about their coverage under the Rule. These entities indicated that they were not aware that they were engaged in activities that would cause them to fall under the FACT Act's definition of creditor or financial institution. Many entities also noted that, because they gener-

ally are not required to comply with FTC rules in other contexts, they had not followed or even been aware of the rulemaking, and therefore learned of the Rule's requirements too late to be able to come into compliance by November 1, 2008. The FTC decided to delay enforcement to enable these entities sufficient time to establish and implement appropriate identity theft prevention programs, in compliance with the Rule.

Please feel free to contact Bovey & Bojorquez, LLP for further information regarding the Red Flags Rule, or to obtain a copy of a sample ordinance implementing the FTC Red Flags Rule.

LEGAL Q & A: ETHICS FOR PLANNING & ZONING COMMISSION

Question: Must a P&Z member abstain from deliberations regarding permits sought for construction of a church building if the P&Z member belongs to that congregation?

Answer: No. The law only restricts conflicts of interests stemming from a city official's financial concerns. The law does not regulate conflicts of interest arising from mere membership in volunteer associations, civic groups, or churches. Some cities have chosen to address such situations through local ethics ordinances.

EDUCATIONAL OPPORTUNITIES

- Dec. 5: Cristina Blanton will present a session on the Legal Aspects of Flextime and Telecommuting at the Texas Municipal Human Resources Association's Employment Law Seminar in Rockwall, Texas.
- Dec. 12: Barbara Quirk will present a session on Sustainability Codes & Green Building Standards at the Center for American and International Law: Planning, Zoning and Property Rights Seminar in Plano, Texas.
- Dec. 12: Cary Bovey will speak on Current Legal Issues Facing Texas Cities at the Region 7 Texas City Management Association meeting being held in Brenham, Texas.

FEATURED CLIENT: CITY OF NAVASOTA

Navasota Chosen for Prestigious Visionaries in Preservation Program

The City of Navasota was one of just three cities in Texas selected for the Visionaries in Preservation program for 2009. The VIP program, sponsored and funded by the Texas Historical Commission, addresses historic preservation issues, growth and change, heritage, tourism, public policy, education and preservation economics. At the introductory meeting in Navasota on October 6, city council members and city staff discussed preservation of the City's historical resources while promoting growth and business attraction and retention. The Texas Historical Commission reports that the VIP program is modeled after an innovative planning process known as "visioning." Visioning is a tool that brings a community together to develop a shared image of the future and form an action plan for achieving that vision. The process is based on four simple, yet often overlooked, questions: Where are we now? Where are we going? Where do we want to be? How can we get there? Through the Visionaries in Preservation Program, communities can:

1. Build partnerships among diverse groups and interests.
2. Foster preservation leadership.
3. Develop unified preservation goals and action plans.
4. Receive priority status for local training and assistance from the THC.
5. Enhance capability to secure grants and funds for preservation status.

Bovey & Bojorquez, LLP congratulates the City of Navasota on its selection to participate in the outstanding VIP program!

**BOVEY & BOJORQUEZ, LLP
FEATURED TEAM PROFILE**



Associate Attorney **Barbara Quirk** earned a Business degree from SMU and a Juris Doctor from St. Mary's University School of Law. She began her career as an Assistant City Attorney for the City of San Antonio, after which she entered private practice to handle defense litigation for local governments and to provide legal counsel to Texas municipalities, with an emphasis on Land Use and Employment Law. She has the distinction of being a *Local Government Fellow* of the International Municipal Lawyers Association ("IMLA") and serves as Vice-Chair of IMLA's Environmental Section. Barbara is a contributing editor of *TEXAS MUNICIPAL ZONING LAW* (3rd Ed.), Mixon, Dougherty, McDonald (2005—2008). Barbara brings with her over 15 years of municipal law experience for the benefit of Bovey & Bojorquez, LLP's clients.



Damien Shores currently is a second-year law student at St. Mary's School of Law. Prior to joining the firm, he was a Mickey Leland intern with the Texas Commission on Environmental Quality. Damien is the firm's law clerk.

PLEASE SAVE THE DATE—7TH ANNUAL B&B CHRISTMAS PARTY AT 5:00 PM ON DECEMBER 5TH!

