

LAWMAKER'S HOUSING ROLE: A QUESTION OF INFLUENCE

San Antonio Express-News (TX) - August 22, 2010

- Author/Byline: Karisa King, STAFF
- Edition: STATE&METRO
- Section: A Section
- Page: 01A
- Readability: >12 grade level (Lexile: 1360)

After the development firm NRP Group LLC lost its second bid for tax credits to finance an affordable-housing project on the city's West Side, an influential ally intervened in the company's cause.

State Rep. Jose Menendez took the lectern at the Texas Department of Housing and Community Affairs and urged board members to fund the San Juan Square II project, a 144-unit apartment complex that would replace blighted public housing.

Menendez had toured the construction site for the first phase of the development, which already had received \$1 million in tax credits, and he made an impassioned plea for the board to keep the money flowing.

"I was so impressed with the new buildings going up. It looked like an oasis, an oasis in an inner-city neighborhood, an oasis and a symbol of hope," he told the TDHCA board in June 2007. "It is unfortunate that we couldn't fund the whole thing at one time."

What Menendez did not tell the board at the meeting was that the development represented something else: a financial boon for the company he works for, Stewart Title, which had received \$91,000 for issuing title insurance on the project's first stage, and landed nearly all of NRP's business on affordable-housing deals.

Two months later, the board granted \$1.2 million in tax credits for San Juan II, and Stewart Title then sold title insurance on the property, receiving about \$98,000, according to state documents released under Texas open records law.

Payouts from the San Juan developments were among about \$1.8 million paid to Stewart Title from NRP housing deals since 2003, records show.

Since joining the Legislature in 2000, Menendez has been one of the most outspoken supporters of NRP and other developers in the affordable-housing sector.

At the same time, the San Antonio Democrat has ascended the ranks of Stewart Title to become vice president for commercial development in the company's national division.

His dual role as a lawmaker who works on behalf of affordable-housing developers and an executive whose company counts as a client one of the largest and most successful firms in the industry raises questions about potential conflicts of interest.

"It doesn't look good," said Andy Wilson, an ethics researcher with Austin-based Public Citizen Texas. "This is symptomatic of what goes on in the Legislature - big companies steering contracts toward influential people."

He said the business relationship doesn't seem to violate Texas ethics laws, but the state's policies lack teeth.

"Unless you have tighter ethics or we have a full-time Legislature where they're not taking outside jobs, these sorts of abuses are going to continue," he said.

Menendez, who lists his position at Stewart Title in reports filed with the Texas Ethics Commission, said he's made no secret of his job with the company. He defended Ohio-based NRP as a firm worthy of his support.

"I don't mind being associated with people who are providing a good quality service to the community. I do have to earn a living," Menendez said. "I think it would be a conflict of interest if the only work I did was for NRP."

Menendez objects to any questions about his independence as a lawmaker. He said his advocacy of affordable housing extends beyond NRP and has included nonprofit developments and housing for seniors, the homeless and hospice patients with HIV.

Menendez said he received no commission from NRP business after May 2004, when he left his position at Stewart Title San Antonio, which closed most of the deals, and switched to Stewart Title's national division.

NRP marketing vice president Dan Markson said his company relies on Stewart Title because of the quality of insurance it provides, not because Menendez is positioned to help NRP.

"Stewart Title is one of the largest companies in the country, and it's Texas-based," he said. "Doing business in Texas, it made sense to use a company in Texas."

About the same time Menendez left his seat on the City Council and went to the Legislature in 2000, he said he introduced Markson to Stewart Title. At the time, Markson worked with Royal Castle, a Florida-based development firm.

"He was new to town and he said, 'I don't have a relationship with anybody in San Antonio,'" Menendez said.

Shortly after that, Markson started working for NRP, he said.

"Since he was already using us, he just kept making the decision," to stay with Stewart Title, Menendez said.

Lobbying efforts

Whether Menendez's support of San Juan II tipped the housing department's decision to fund the project is unclear.

During its first two attempts to win tax credits, NRP scored high marks, but funding had been stretched thin due to a spike in construction costs.

San Juan II, which was a joint venture between NRP and the San Antonio Housing Authority, also had broad community backing.

On the day Menendez spoke to the housing board, he helped drive vanloads of about 30 San Juan residents to the meeting in Austin. The group wore red T-shirts and told board members about bad conditions in parts of the project that had yet to be redeveloped.

Longtime TDHCA board member Kent Conine said it's "refreshing" to see elected officials cheer for affordable housing, especially because the industry faces persistent stereotypes of the old public housing model.

"I think the board is influenced by elected officials who show up to say we really want affordable housing in our area," Conine said. "I think that's a good and healthy thing because a lot of times we don't get that."

San Juan II wasn't the only case where Menendez pushed for a project that resulted in payments to Stewart Title.

In August 2004, NRP had just lost a request for tax credits on a 140-unit apartment complex for senior citizens on the Southwest Side.

The project initially won a high score, but a Texas attorney general's opinion changed the rules on how the housing department ranks projects, knocking out the Alhambra on a technicality.

About a month later, Menendez asked the board to dedicate funds from the upcoming year to the project, an award typically reserved for developments that have special merit.

The board didn't grant the request, but in 2005 it awarded \$946,988 in annual tax credits for the project, which had received the second-highest score in the San Antonio region.

When the deal closed, Stewart Title received \$84,700, state records show.

In the case of the Willow Bend Apartments, it was another developer, Mike Hogan, of Hogan Properties, who called on Menendez to help secure funding for a deal that also paid out to Stewart Title.

Hogan had been seeking both tax credits and tax-free bonds to fund the construction of the apartments, a 250-unit complex on Potranco Road. But a last-minute attorney general's ruling required Hogan to line up the tax credits before it would approve the bonds.

The decision left Hogan scrambling for quick approval of the tax credits from the TDHCA board. That's when he called Menendez, whose district encompassed the project.

At the February 2005 meeting, Menendez urged the board to grant the credits, even though Hogan's application had arrived after a deadline for consideration at that month's meeting.

Menendez stressed that the application was late due to the unexpected ruling from the AG, and that it had City Council and community support.

"Please look at the fact that you do have the ability to grant this waiver on very specific cases such as this one," Menendez told the board. "I haven't heard anything from anybody in the community that would be opposed."

His remarks appeared to have an impact.

"If they have all this support in the community and they have the support of the state representative, wouldn't it be in the best interest that we do a waiver and help this project?" then-board member Norberto Salinas asked.

The board granted the funding. When the deal closed, Stewart Title received \$105,000, records show.

Hogan said Menendez's help on the deal "had nothing to do" with his company's patronage of Stewart Title. He couldn't recall how Stewart Title picked up the deal, but asking for Menendez's help made sense.

"It's his district," Hogan said. "Who else would I turn to?"

Housing advocate

In the high-stakes world of tax-credit development, the backing of local and state officials is vital.

Developers who compete for a limited number of tax credits can win points for garnering support from elected officials and neighborhood groups. Failing to shore up that support can cause developers to lose out on applications that cost thousands of dollars to prepare.

Markson, who has proven to be particularly adept at gaining such backing, emphasized that developers must win over a broad spectrum of neighbors and officials before securing letters of support from state lawmakers.

"If I want any representative's support, I better come with the neighborhood, the City Council person and maybe the county commissioner as well, and only then will they intercede and support it," said Markson, whose housing projects have won local applause and national awards.

For those who win tax credits, the payoff can be lucrative, with developer fees running into the millions.

This year, TDHCA awarded \$68 million in annual tax credits for each of 10 years. Developers typically sell the credits to brokers in exchange for cash to fund their construction costs.

Few lawmakers have taken as much of an interest in the program as Menendez. During three terms on the Urban Affairs committee, which handles bills related to the housing department, Menendez repeatedly has charged that the state shortchanges the San Antonio area on tax credits and he has battled to bring more funding here.

He also has pressed for reforms that would allow developers to avoid losing out against competitors when there is no neighborhood group in their project's area.

Menendez objects to suggestions he has catered more to the interests of for-profit developers than nonprofit groups. He stressed that since 2003, he has played a role in about 25 bills relating to affordable housing, including a measure that prevented developers from receiving all of their fees upfront.

"I advocate for affordable housing - period," he said.

But much of his legislation and efforts have focused on the administration of the Housing Tax Credit program, which typically is dominated by for-profit developers.

When nonprofits participate in the tax-credit program, the groups usually partner with private developers that bring the capital needed to build multimillion-dollar apartment complexes. In return, the nonprofits bring local property tax exemptions to the partnership.

"I don't think it's any secret that his fairly close relationship with a couple of San Antonio-area developers has been a longstanding relationship," said Steve Carriker, executive director of Texas Association of Community Development Corporations, which represents nonprofit developers. "He's been interested in the regulations and legislation that they're interested in."

Other nonprofit groups echoed the sentiment but declined to speak on the record because of Menendez's influence in affordable housing issues.

Jeanne Talerico, executive director of Texas Association of Local Housing Finance Agencies, said Menendez's involvement with the tax-credit program evolved naturally out of his position on the Urban Affairs committee and the needs he saw in his district.

"I wish that there were more legislators who worked from the heart as much as he does," she said.

Last year, Menendez wrote a bill that would have made it easier for tax-credit developers who partner with nonprofits to keep property tax exemptions. Those partnerships have stirred controversy because they allow for-profit entities to hold near complete ownership interest of properties.

Matthew Tepper, a Round Rock tax attorney who works for appraisal districts, testified against the bill because he said it allowed tax-

credit developers to "double dip" on public subsidies.

"The government has already subsidized these (properties) with tax credits," Tepper said. "It just makes it even more profitable for those companies."

The bill also raised concerns with Carriker's group, which feared the measure could sour public support for the property tax exemption that originally was aimed exclusively at nonprofits.

"That seemed to broaden the law further than we believe it was ever intended to be broadened," Carriker said.

Developers bring business to legislator's employer

In these three examples, state Rep. Jose Menendez pushed for tax credits for developers, who then bought title insurance from Stewart Title, which employs Menendez as a vice president.

Willow Bend Apartments

8330 POTRANCO RD.

Stewart Title received \$105,000 for title insurance

Developer Hogan Properties received tax credits worth \$592,000

San Juan Square II Apartment Homes

2404 S. CALAVERAS ST.

Stewart Title received \$91,000 for title insurance for first stage

Developer NRP Group received tax credits worth \$1.2 million

The Alhambra Senior Apartment Homes

7130 NEW LAREDO HWY.

Stewart Title received \$84,700 for title insurance

Developer NRP Group received tax credits worth \$946,988

SUNDAY FOCUS

• Caption: 1) Rep. Jose Menendez PHOTO: MUG CUTOUT ; 2) Menendez PHOTO: MUG ; 3-5) PHOTOS: TOM REEL/treel@express-news.net (Menendez) and LISA KRANTZ/lkrantz@express-news.net (properties) ; 6) Willow Bend Apartments, San Juan Square II apartments, The Alhambra apartments (map) GRAPHIC: EXPRESS-NEWS

- Index terms: News - Local
- Record: 16580496
- Copyright: Copyright (c), 2010, San Antonio Express-News. All Rights Reserved.