

Grandfathering



Planning & Zoning Workshop
City Hall Essentials
Lubbock, TX June 6, 2019

What's in a name?

Grandfathered

LGC Chapter 245

Vested Rights

Freeze Law

HB 1704

Changing Rules in Middle of the Game

- **What's the game?**
- **Who are the players?**
- **When does the game begin?**
- **When does the game end?**

What do Owners Want?

■ Predictability

- Regulations
- Fees

■ Time

- Market Fluctuations
- Funding

What Do Agencies Want?

■ Specific Notice

■ Responsiveness

- Accountable to Voters
- Sympathetic with Neighbors

■ Remain Current

- Utilize New Technology
- Keep Regulations Updated

In Essence

- application for permit
- reviewed & approved/denied
- solely on the basis of regulations
- in effect at the time of the
- original application is filed
- for first permit in a series

What is a “permit”?

- Approval
- for construction
- required by law
- that a person must obtain
- to perform an action
- or complete a project

Is Zoning a “permit”?

What is a “project”?

- endeavor
- over which city exerts jurisdiction
- for which permits are required

*Is a **plat** a “permit” or a “project”?*

Trends?

- **Presumption** that today's permits subject to today's regs.
- **Procedures & criteria** to determine if project is grandfathered.
- **Burden** is on applicant.

Municipal Fixes

- Permit Expiration Dates
- Track permit milestones
- Modify Standardized forms
- Carefully track project history
- Define what constitutes “fair notice”
- Clarify what constitutes a *new* “project”

Points to Consider

1. Written Policy v. Informal Practice
2. Process & Procedures
3. Criteria
4. Burden Shifting
5. Recognition v. Creation

Possible Ordinance

- Presumption against Dormant Projects
- Policy that permits sought today comply with today's rules
- Application
- Criteria
- Development Review Committee:
 - Dir Planning, City Eng, PW Dir
- Process: Comt >>Cty Mgr>>BoA>>Ct