COMPLAINT: Violation of Conflict of Interest Statute

MEETING: Llano Special Called City Council Meeting

MEETING DATE: 2/23/15 at 5:30pm

AGAINST: Mayor Mikel Virdell

SUBMITTED BY: Marc Sewell, Llano Citizen, Property Owner

SUMMARY: In a scheduled city council meeting, Mayor Virdell violated Local Government Code §171.004 by not filing an affidavit of conflict when advocating a lease of real property from Clayton Leveret.

FACTS:

- 1. Agenda Item D-1 and E-1, Llano City Council approved a 50 year lease of real property from Clayton and William Leveret.
- 2. Mayor Virdell claims that Clayton Leverett was an "independent agent" and thus no conflict of interest exists.
- 3. Mayor Virdell openly advocates the property lease.

ASSERTIONS:

Mayor Virdell has violated Local Government Code §171.004. Mayor Virdell claiming Clayton Leverett is an *independent agent* rather than an *employee* is an IRS statute statement¹ and not pertinent to the conflict of interest statute which is concerned with financial relationships and not employee relationships.

Conflict of Interest exists between Mayor Mikel Virdell and Clayton Leverett because:

- 1. Local Government Code §171.001(1) says that the mayor is a local public official.
- 2. Local Government Code §171.001(2) qualifies Mikel Ray Virdell, Mikel R. Virdell Real Estate(DBA), Remax Llano(DBA), Virdell Real Estate(DBA), and virdellrealestate.com(DBA) as business entities.
- 3. Local Government Code §171.002(a)(1) qualifies Mayor Virdell as having substantial interest in Remax Llano as shown in Appendix A.
- 4. Local Government Code §171.002(a)(2) qualifies Clayton Leverett as having substantial interest in Remax Llano. Appendix A shows that Mayor Virdell is the broker for Remax Llano. Appendix B shows that Clayton Leverett is a salesperson for Remax Llano. Appendix C shows that Clayton Leverett is licensed as a salesperson and not a broker. Appendix C also shows that his broker is Mikel Virdell. In a real estate transaction, the broker gets the commission and splits it with salespeople and listing agents. This demonstrates that "funds are received by" Clayton Leverett from Mikel Virdell. Appendix D shows a sample listing that gives reason to suggest that at least 10% of her income is received from Mikel Virdell.
- 5. Appendix E, website for the property, shows Clayton Leveret as co-owner of the property and thus qualifies as substantial interest in real property defined in Local Government Code §171.002(b). The lease agreement shows special economic effect.

¹ IRS Code Sec. 3508. Treatment of real estate agents and direct sellers

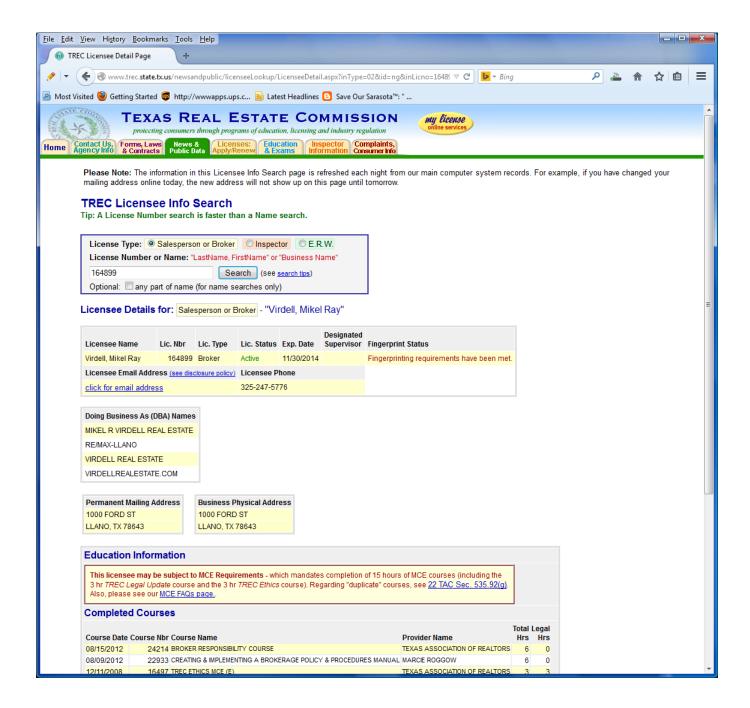
- 6. Thus, Mayor Virdell has violated Local Government Code §171.004 because he and Clayton Leverett have a conflict of interest and:
 - a. Mayor Virdell did not file an affidavit of conflict
 - b. Mayor Virdell did not abstain from further participation in a matter requiring an affidavit

REQUESTED ACTIONS:

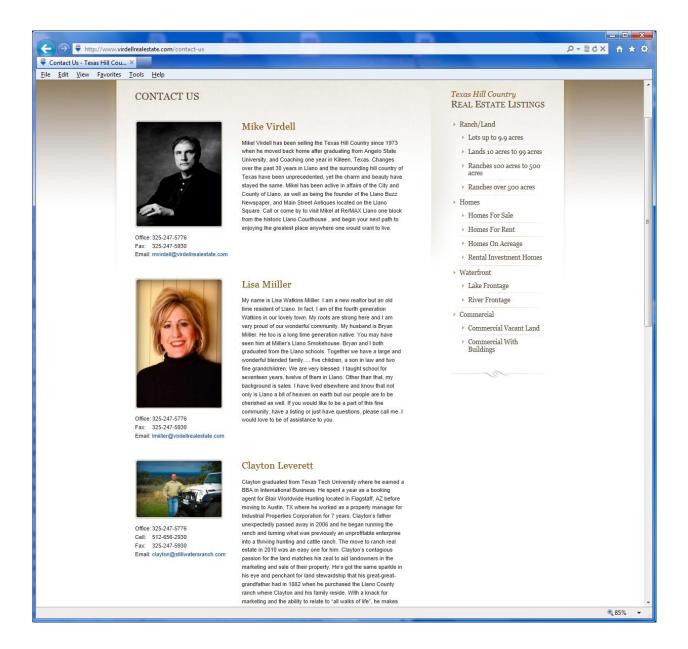
- 1. Penalties as required by §171.003.
- 2. Void the approval of the lease agreement as required by §171.006. Had council members known of the conflict of interest, at least would not have voted for the lease which would have failed the vote.
- 3. Removal of Mayor Virdell from office based on Local Government Code §21.025(a)(2) and §21.023 or other.

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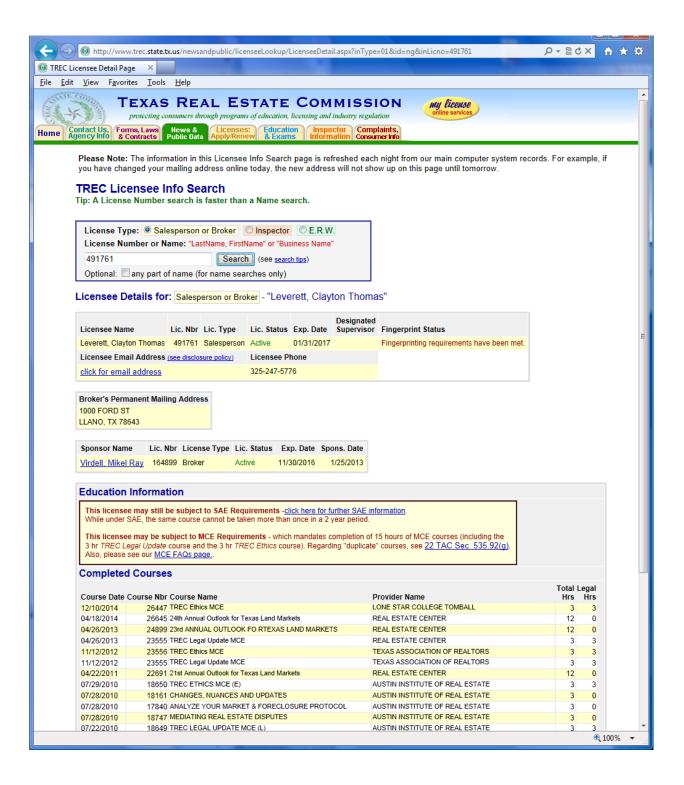
Appendix A: Mayor Virdell TREC Broker License



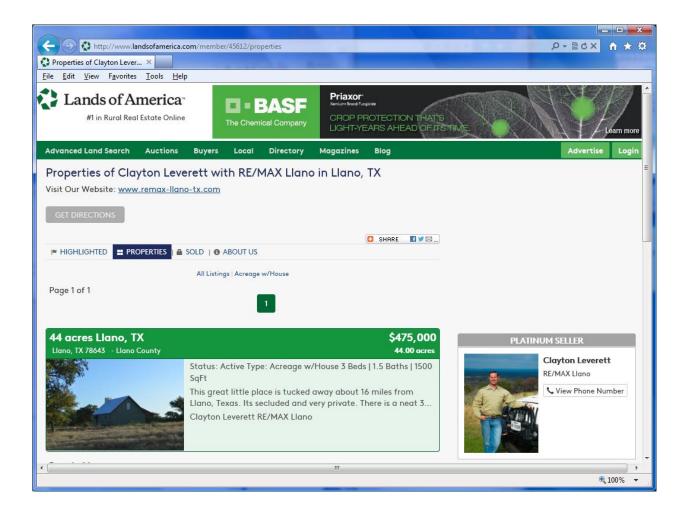
Appendix B: Remax Llano Webpage



Appendix C: Clayton Leverett TREC Salesperson License



Appendix D: Clayton Leverett with RE/MAX Llano



Appendix E: Clayton Leverett Ranch

