

THE

Real Estate

AUSTIN LETTER

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P.O. Box 1905 / Austin, Texas 78767-1905 / 512-498-9495 / Fax 512-327-1976 / e-mail News@AustinLetter.com

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Dear Client:

Texas farmers and ranchers are selling out to real estate developers at a record pace. About 244,000 acres of farm, ranch, and forest land, as well as other spacious land, is sold for development each year, according to the Texas Real Estate Center at TexasA&M. Between 1982 and 1992, only 139,000 acres per year were converted, with the rate leaping to 239,000 between 1992 and 1997.

The sell-off of rural Texas tracks the accelerating shift of the Texas economy from an agrarian and natural resource-based market to an urban, technology-based one.

But, it also betokens a new political reality in which traditional **rural interests are increasingly subordinated to urban concerns** in the Texas Legislature.

And the full force of this political shift will be felt in next year's legislative redistricting battle, as suburban, mostly Republican members seek a larger share of **the political pie** at the expense of their rural, mostly Democratic colleagues.

In an effort to refocus attention on rural issues, House Speaker **Pete Laney** (D-Hale Center), an outspoken advocate for rural interests, has appointed a Select Committee on Rural Development, which will meet initially 3/15/00 in Big Spring. Chaired by Rep. **Barry Telford** (D-DeKalb), the committee will study ways to bring the **benefits of the "New Economy" to rural Texas.**

Telford's appointment is significant because he is both chair of the powerful House Calendars Committee (which decides whose bills are scheduled for floor action) and lead fundraiser for the Texas Partnership, a political action committee dedicated to re-electing House Democrats with primary and GOP opposition.

In other words, the committee's agenda is Speaker Laney's agenda, and you can be sure that it will get **top priority next session.**

Why should Austinites, and particularly Austin's high-tech community, care about either this committee or rural interests in general?

For the simple reason that powerful House members will soon be **asking the tech magnates what they can do for rural Texas.** And it would be smart politics for them to have an answer.

One sure sign that an industry has come of age is when smart, entrepreneurial trial lawyers target it for mega-dollar class action lawsuits. And, that is exactly what is happening to Internet companies.

According to the *New York Times Cyberlaw Journal* (2/18/00), a Dallas lawyer has sued Yahoo! Inc. and its subsidiary Broadcast.com on behalf of the country's 50 million Yahoo users. Seeking \$50 billion in economic damages and unspecified punitive damages, the lawsuit alleges that Yahoo **illegally monitors its Internet users without their consent** in violation of Texas' anti-stalking and trespass statutes.

At issue is Yahoo's use of "cookie" technology, which allows the company to **track its customers browsing activity**. The lawsuit claims cookies allow Yahoo "to watch, to spy, to conduct surveillance, to analyze the habits, inclinations, preferences, and tastes . . . without consent, agreement or permission of class members." Yahoo is also charged with deriving improper financial benefits from the collection of confidential customer information.

Yahoo denies the allegations and promises to mount a vigorous defense, and legal experts seem to agree that anti-stalking laws are designed to protect personal security, not personal privacy. Yet, if the Dallas district judge hearing the case decides to let it go forward as a class action, Yahoo may be placed in the untenable position of either betting the company on an enormous jury verdict or settling the case for mega-bucks. Under Texas law, once a trial judge certifies a class, the next step is usually settlement — few companies have deep enough pockets to risk trying the case.

Even if the Yahoo case is thrown out, **consumer advocates will continue to push for enhanced privacy protections** by any means necessary. DoubleClick's problems mark the beginning of a wave of legal, regulatory, and legislative assaults on e-commerce data gathering and distribution practices.

The bottom line is that emerging, capital-hungry web companies — just like traditional businesses — must now **factor potential legal liability into their financial equation**. Unless it is addressed with industry self-regulation to protect privacy, the additional risk could eventually make both venture capital and traditional financing more expensive and harder to come by.

Here are some Austin factoids that will help your financial planning, courtesy of the Greater Austin Chamber of Commerce:

Average price of a **new home**: \$148,065

Median price of an **existing home**: \$144,775

Average price of a 2 bedroom-2 bathroom **apartment** (1,023 square feet): \$808.

The market for industrial space in Austin is extremely tight, according to NAI/Commercial Industrial Properties. In 1999, Austin industrial businesses sucked up more than 2.1 million sq.ft. of Flex/R&D, warehouse, manufacturing, and related office space — 12% more than 1998's sizzling record rate.

The biggest growth sector was northeast Austin, which NAI/CIP reports absorbed 42% of the 1999 total, with the southeast sector not far behind. In fact, finding warehouse space in North Austin is next to impossible: **vacancy rates are an astounding 1%**. In the north and northeast Flex/R&D market, vacancy rates are a thin 2%. It's a bit better citywide (5%), but not much.

Some relief may be in sight. NAI/CIP adds that 1.4 million sq.ft. of warehouse space and 1.7 million sq.ft. of Flex/R&D space may come on line this year.

“Taking stock in Austin” is Paula Fracasso’s signature line on correspondence, and with good reason. Fracasso is the newly-hired executive director of the Austin Entrepreneurs Foundation (AEF), and she literally takes stocks — or stock options, that is. AEF is a charitable organization that recruits contributors who donate stock options to improve the quality of life in Austin.

AEF made a big splash this month in *Texas Monthly Biz.* The article explains how AEF was founded by a gift of \$50,000 from Dazel CEO **Bill Bock**. Bock, joined by the likes of **Ingrid Vanderveldt** of Dryken and **Lynne Skinner** of Austin Ventures, quickly raised \$800,000 in cash to endow the Foundation's operations. In addition, at least 25 area technology start-up companies have donated stock options. Two of the companies that have donated stock options have recently held “liquidity events,” which translates into cold cash for AEF.

AEF might best be described as old Austin business mentoring new Austin business. The list of endowment sponsors includes established Austin firms, while the list of companies promising stock options primarily represent New Economy up-and-comers. One could conclude that the **transfer of responsibility and power is in progress** and virtually represented through AEF.

To put it another way, a small number of long-time Austin employers have been carrying the burden of community responsibility for decades. Now, **shared responsibility with the new “users” is welcome.**

Currently, AEF is focusing on enrolling as many of the new Austin start-up companies as possible. While by some estimates there are almost 800 start-up companies in Austin right now, only 60 to 70 of them will hit the jackpot, and Fracasso is busy recruiting as many of them as possible. While AEF is not yet certain of how it will distribute its still-to-be-realized largesse, **success is in the air.** A similar group in San Francisco has already raised more than \$4 million in endowments, and with Austin's vertical growth curve, **the potential is virtually unlimited.**

The March 14 primary election is upon us, and your eyes should be focused on an interesting and competitive race in House District 48, which stretches from UTAustin and West Austin to Oak Hill. As we reported a few weeks ago, the district is thought to have a Democratic lean, although Republican **Terral Smith** held the seat for most of the 1980's before handing it over to Democrat **Sherri Greenberg**.

While the Democratic race features two relatively familiar community activists, **Mandy Dealey** and **Ann Kitchen**, Republicans must choose among five combatants: **Scott Loras, Jill Warren, Joe Anderson, Maria Burbrage, and Robert Wyckoff**. Here is a brief background on the three leading candidates:

Loras is a lawyer and businessman with an undergraduate degree from UTAustin and a law degree from South Texas College of Law. He has been active in local GOP politics as founder of the Capitol Pachyderm Club.

Warren is a practicing lawyer and board member of the Austin Young Lawyers Association. She received both her bachelor's and law degrees from UTAustin. Her Capitol experience includes staff work for former Senator **John Montford** of Lubbock, who is now Chancellor of Texas Tech.

Anderson is likewise an attorney with the firm Burns Anderson Jury & Brenner. He is a native of the district and a Texas Tech graduate. He has been involved with both the Young Conservatives of Texas and the Hill Country Property Owners Association.

Although Warren has outspent and outraised her opponents by a small margin, it is **unlikely** that any candidate will have sufficient support to **win without a runoff**. By the same token, the Dealey-Kitchen Democratic primary is **too close to call**.

Dr. Louis Overholster: the amount of sleep required by the average person is only 5 minutes more.

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