



UNDERDOG LAW REPORT to the Renton City Council *Mon, Jan 27, 2014*

"A free debate of ideas often results in the wisest gov't actions."

The 1st Amendment, in conjunction with the 14th, prohibits governments from "abridging the freedom of . . . or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances." These expressly guaranteed freedoms share a common purpose of assuring freedom of communication on matters relating to the functioning of government. And so today, with that in mind, I bring the following to the attention of the Council. It concerns a recommendation from the Executive Branch (meaning the mayor and his staff) which were approved by the Council and which I believe interject such subjectivity into the city code as to make it "void for vagueness."

I mentioned last week that the City's building code had been revised to interject such subjectivity as to make it almost useless for its intended purpose--which is to set clear groundrules for construction in the city. The former RMC 4-3-100(A) provided that minimum standards "must be met."

In May 2010, these words were removed.

The amended version does not require an applicant "to demonstrate sufficiency to the standard associated with the guideline that has been approved." Instead the Administrator need only determine the proposed intent of meeting the design requirements is "sufficient." RMC 4-3-100(A)(2)(b)

This strikes me as gobble-d-gook and what defines "sufficient" these days when juxtaposed against the term "creative design alternatives" ?

RMC 4-3-100(C), Exemptions, reads: Proposals will be considered on the basis of individual merit, the overall intent of the minimum standards and guidelines, and creative design alternatives will be encouraged in order to achieve the purposes of the design regulations.

The term "creative design solutions" or "creative design alternatives" then permeates the code--an undefined term which lacks objective interpretation.

What is the apparent effect of this? I believe it interjects such subjectivity in the DESIGN REGULATIONS as to make DESIGN REGULATIONS suspect for the purpose intended--in other words, "anything goes." If the Administration favors an applicant, then it can interpret the DESIGN REGULATIONS liberally--anything can be a "creative design alternative." But if applicant is a private individual trying to remodel or build, I wonder what the chances are that the Administration will consider his plans as having merit or creative. I invite citizens to call me with examples, and I will do more research in this area. As the Council considers revising the Comp Plan, I hope they will be mindful of clear guidelines which can be easily interpreted by developers and citizens alike.

editorial comment (not legal advice) from Inez PETERSEN, J.D.
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