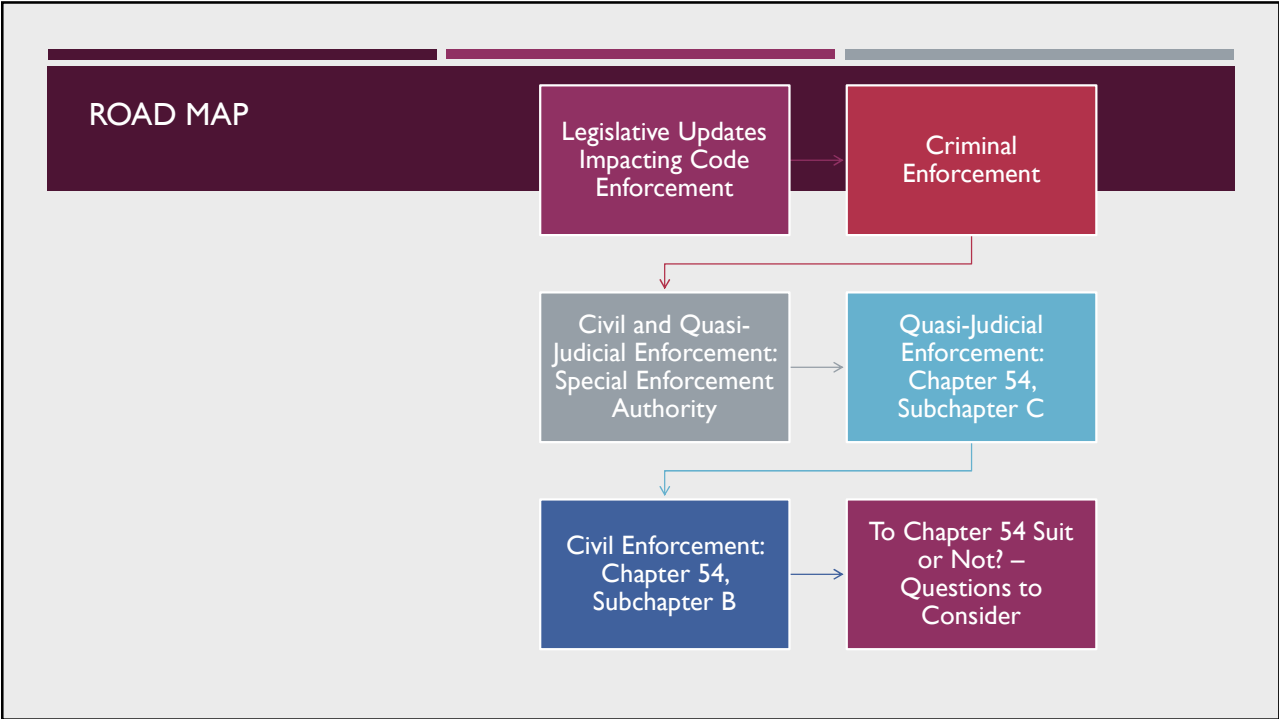




1



2

LEGISLATIVE UPDATES IMPACTING CODE ENFORCEMENT

- S.B. 304 – Code Enforcement: allows a city, by ordinance, to provide its municipal court with: (1) civil jurisdiction for the purpose of enforcing certain code enforcement related ordinances; (2) concurrent jurisdiction with a district court or county court of law within the city's territorial limits and property owned by the city in the city's extraterritorial jurisdiction, for the purposes of enforcing health and safety nuisance abatement ordinances; (3) the authority to issue search warrants to investigate a health and safety or nuisance abatement ordinance violation, and (4) the authority to issue a seizure warrant to secure, remove, or demolish the offending property and removing debris from the premises.
- H.B. 4765 - Code Enforcement Officers: among other things, provides that: (1) a city may only engage in code enforcement without employing an individual registered as a code enforcement official if the individual engaging in code enforcement is exempt from state registration requirements; and (2) that an individual is not required to be registered as a code enforcement officer if the individual is required to be licensed or is registered under another state law and engages in code enforcement under that license or registration.
- S.B. 1376 - Code Enforcement Officers: provides that a code enforcement officer in training may engage in code enforcement without supervision if the employer of the code enforcement officer does not also employ a registered code enforcement officer.

3

CRIMINAL ENFORCEMENT

Municipalities may enforce ordinances criminally in their municipal courts

Enforcing ordinances criminally may result in underlying violations being addressed, while not meaningfully addressing them in others

Criminal enforcement of ordinances may be inherently limited by constraints of criminal process

4

CIVIL AND QUASI-JUDICIAL ENFORCEMENT: SPECIAL ENFORCEMENT AUTHORITY



Chapter 342 of Texas Health and Safety Code: Unsanitary Conditions



Chapter 683 of Texas Transportation Code: Junked Vehicles



Chapter 214 of Texas Local Government Code: Dangerous Structures

5

QUASI-JUDICIAL ENFORCEMENT: CHAPTER 54 SUBCHAPTER C



- Ordinances subject to quasi-judicial enforcement:
 - For the preservation of public safety, relating to the materials or methods used to construct a building or improvement;
 - Relating to the fire safety of a building or improvement;
 - Relating to dangerously damaged or deteriorated buildings or improvements;
 - Relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
 - Relating to a building code or to the condition, use, or appearance of property in a municipality;
 - Relating to animal care and control; or
 - Relating to water conservation measures

6

QUASI-JUDICIAL ENFORCEMENT: CHAPTER 54, SUBCHAPTER C

Three ways to enforce ordinances under Subchapter C:

Building and Standards Commission – Section 54.033

Alternative Procedure for Administrative Hearing – Section 54.044

Alternative Adjudication Process – Section 54.043

7

CIVIL ENFORCEMENT: CHAPTER 54 SUBCHAPTER B

- Ordinances subject to civil enforcement:
 - For the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement;
 - Relating to the preservation of public health or to the fire safety of a building or other structure or improvement;
 - For zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;
 - Establishing criteria for land subdivision or construction of buildings;
 - Implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
 - Relating to dangerously damaged or deteriorated structures or improvements;
 - Relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
 - Relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;
 - Relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system;
 - Relating to floodplain control and administration;
 - Relating to animal care and control; and
 - Relating water conservation measures

8

CIVIL ENFORCEMENT: CHAPTER 54 SUBCHAPTER B

To obtain injunction, must present a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant

May recover civil damages

May file action in rem for actions to compel the repair or demolition of a structure or to obtain approval to remove the structure

- Filing a lis pendens provides notice to subsequent purchasers or mortgagees that acquire interest in property that property is being taken subject to the enforcement proceeding and subsequent orders of the court

Appeals governed by Texas Rules of Appellate Procedure

May be filed in district court, county court at law of the county, or municipal court

9

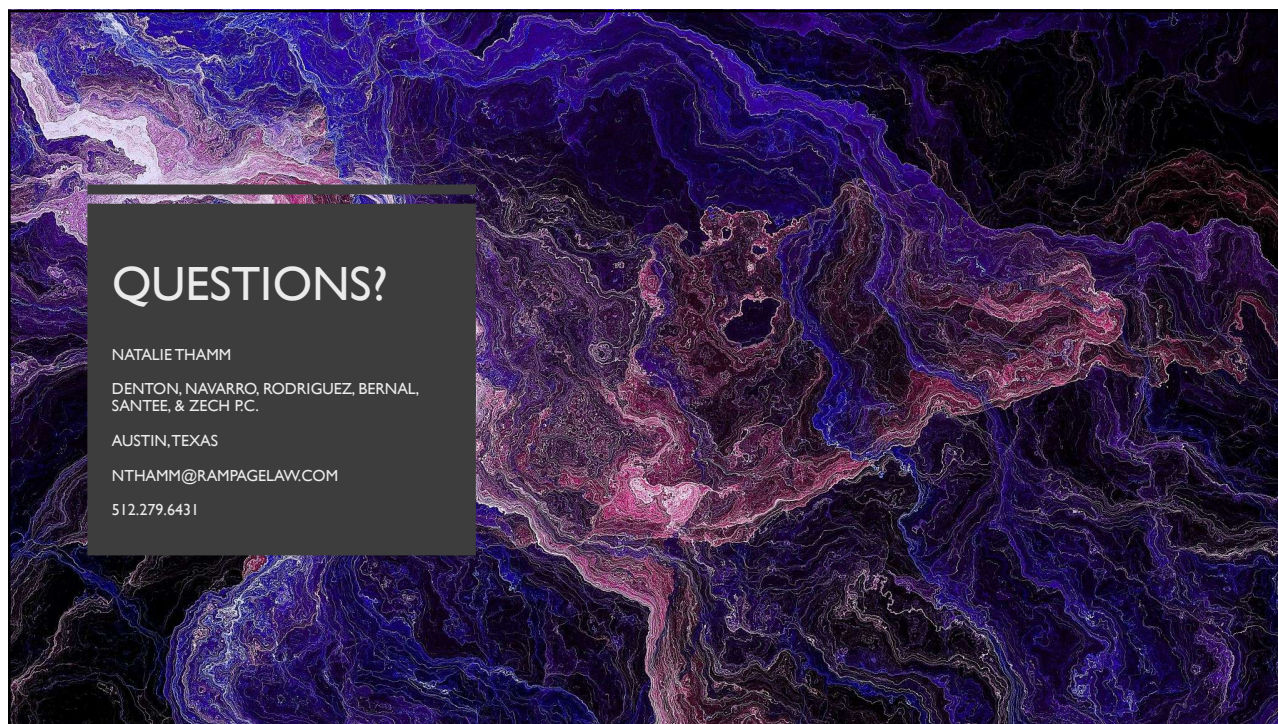
TO CHAPTER 54 SUIT OR NOT? – QUESTIONS TO CONSIDER

Does the violation qualify for civil enforcement under Chapter 54, Subchapter B?

Can a showing of substantial danger be made?

Are there alternative methods of enforcement that could also gain compliance?

10



QUESTIONS?

NATALIE THAMM

DENTON, NAVARRO, RODRIGUEZ, BERNAL,
SANTEE, & ZECH P.C.

AUSTIN, TEXAS

NTHAMM@RAMPAGELAW.COM

512.279.6431