Judge orders CodeNext petition on the ballot

By Philip Jankowski - American-Statesman Staff
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The CodeNext petition ordinance will appear on November's ballot after a judge on Monday overturned previous action by the Austin City Council.

In her order, Travis County state District Judge Orlinda Naranjo ruled it was premature for the City Council to prevent Austin residents from voting on the petition ordinance.

"We are gratified by the court's decision respecting Austinites' right to vote," said Fred Lewis, an anti-CodeNext activist and the lead attorney in the lawsuit against the city. "We expect the mayor and council to honor their word and put the petition on the ballot, per Judge Naranjo's order."

While it was good news for Lewis and the largely anti-CodeNext groups that have been the loudest supporters of the petition ordinance, Naranjo's order made no ruling on whether the proposed ordinance would violate state law that prevents votes on zoning.

That was the main legal point outside counsel for the city of Austin made to Naranjo during arguments July 2. But in a letter to attorneys, Naranjo said it was too early to deny an election on those grounds because CodeNext remains in draft form.

"Neither the parties nor the court know the exact substance of the final version of CodeNext," Naranjo wrote. "It is subject to revisions and may never be passed by the City Council."

Council members on May 24 voted 6-4 not to allow a vote on the petition. However, they also voted to quickly order an election on the petition if a judge ruled against their action.

Mayor Steve Adler voted against placing it on the ballot. When reached Monday, Adler told the American-Statesman that he would now support having an election on the proposed ordinance.

"We brought it up that way to give the court time to make a ruling and to place it on the ballot," Adler said. "A court has ruled, and I am going to support putting it on a ballot."

If approved, the proposed ordinance would allow voters to decide whether they wish to vote on CodeNext and any future large-scale revisions of Austin's land development code. It also calls for a waiting period before any voter-approved land-use rewrite is adopted.

Last year, two political action committees began the effort to place CodeNext on the ballot. Over six months, they gathered 31,000 signatures as support for CodeNext began to erode over fears that the rewrite would encourage redevelopment of established Central Austin neighborhoods.

The petition soon gained support from the Austin Neighborhoods Council, the Save Our Springs Alliance and the Austin NAACP.

"I appreciate the effort that the lawyers put in crafting the argument," said Jeff Jack, president of the Austin Neighborhoods Council. "I appreciate the time, and I think it will be a benefit to our community to get a vote on it."

CodeNext was already a central issue in the five City Council and mayoral races this year. But Monday's ruling could pour kerosene on candidates' rhetoric just as campaign season is starting to heat up.

CodeNext is the city's rewrite of its land-use code, zoning codes and maps that began after the comprehensive plan Imagine Austin was approved in 2012. It is supposed to address many of Austin's most vexing problems, including gentrification, rising housing costs and transportation.

The project is over budget, is years late and has cost the city $8 million in fees to consultants. However, it appears close to completion as the City Council began reviewing the project in late May for possible approval sometime in the coming months.

It is unclear whether Monday's ruling will affect their work on CodeNext.

"It is not changing my process, with having completed my read-through last week and now doing a second read-through," Council Member Jimmy Flannigan said. "I'm going to continue that work. The thing we know for sure is that we have a broken code … that I think we should fix."