

TYLA Launches Water and Wastewater Services Project

By Kevin Priestner

Illustration by Ryan Day

“We had this general feeling that TYLA needed to create a pro bono project for environmental lawyers. Environmental lawyers sometimes don’t feel qualified to [offer more traditional kinds of pro bono assistance].”

The City of Houston attracted international attention when it hosted Super Bowl XXXVIII. News accounts celebrated the city’s gleaming buildings and cosmopolitan amenities. What they did not focus on were the number of homes in the area lacking adequate water and wastewater services.

While most people are familiar with colonias along the border, few realize how many neighborhoods in urban areas are without water and wastewater services — sometimes in the middle of the city. Austin, San Antonio, Dallas, and other metropolitan areas struggle with pockets of their jurisdictions existing without what most of us consider basic services.

“It’s amazing in a city as modern as Houston that so many could be lacking such a basic service,” State Rep. Kevin Bailey said. “We never think how hard life would be if you couldn’t bathe, cook, or wash clothes.”

For more than a decade, Bailey has worked to redress that situation. In 1991, he sponsored and helped pass a bill requiring the City of Houston to provide basic services to areas it annexed. More recently, he sponsored and helped pass legislation creating the Aldine Community Improvement District in order to raise funds for unincorporated

areas lacking such services.

Bailey has been at the forefront on this issue, but he has had significant assistance from young attorneys. “The young lawyers have donated a lot of their time,” he said. “We couldn’t have done it without them.”

Helping Texans is nothing new for the Texas Young Lawyers Association (TYLA). But even by TYLA’s standards, its latest project is daunting in scope.

“I readily acknowledge this is a very complicated project,” said Bob Stokes, a senior assistant county attorney in the environmental division of the Harris County Attorney’s Office who co-chairs the TYLA Low-Income Texans Outreach Committee. “These are hard problems to fix.”

Stokes and TYLA Immediate Past President Andrew Strong were instrumental in creating the Texas Safe and Affordable Water and Wastewater Services project, or TSAWW.

“When I took office,” Strong said, “there was this group of environmental lawyers on the TYLA board, including Bob Stokes and Lisa Richardson. We had this general feeling that we needed to create a pro bono project for environmental lawyers. In my experience, environmental lawyers are sometimes reluctant to do pro bono work because

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they don't feel qualified to offer the family law help that is needed."

Soon afterward, Strong gave a presentation on ethics and pro bono to the State Bar Environment and Natural Resources Law Section's Environmental Superconference in which he committed TYLA to launching a water and wastewater services project.

"We got Heather Way and Rebecca Rentz and all these other great attorneys on board," Strong said. "We decided to develop a white paper that would answer questions for lawyers across the state."

The first phase of the project occurred last year, when the TYLA Low-Income Texans Outreach Committee produced

the white paper, *"Helping Low-Income Texans Across Texas Access Safe and Affordable Water and Wastewater."*

"More than anything, the purpose was education," Stokes said. "The idea was to make people aware of the problem and provide a guide that would give lawyers, especially environmental lawyers, the tools to work on these issues pro bono."

The paper describes six ways underserved communities can access water and wastewater services: connecting to an existing system; creating an on-site system; forming a nonprofit water supply and sewer service corporation; forming a fresh water supply district; forming a water control and improve-

ment district; or forming a municipal utility district (MUD). The paper also provides program overviews and contact information for relevant state, local, federal, and private resources.

Though the paper has been well received, Strong says there was a realization among those who worked on it that there is only so much an attorney can do. "Nine times out of 10, these situations come down to money," Strong said. "Certainly the legal issues are complicated, but if the communities don't have money to spend, it doesn't matter what the lawyers can do. So we decided to create a nonprofit, Texas Safe and Affordable Water and Waste-

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Beaumont Place, one of four communities in Harris County that TSAWW is targeting, includes homes discharging wastewater into ditches (top) and shallow trenches (above).

water, Inc. That way it could handle the paperwork for grants and funnel them directly to contractors.”

This year, the committee, working with the nonprofit, set as its goal implementing the project in Harris County. The committee targeted four neighborhoods: Beaumont Place, Reservoir Acres, Hampton Oaks, and Fruitland.

“The communities in Harris County,” Stokes said, “are not areas without running water. They’re older, poorer neighborhoods that generally have mobile homes on small lots with septic systems. Septic systems, if designed well, can treat water appropriately, but in these areas, they are either too old and decrepit or the lots are too small. There is no physical way for a septic system to work well in these situations. The overflow drains to the roadside and either sewage or partially treated sewage bubbles up through the ground. It’s an environmental issue and a health issue.”

It is also an affordability issue. “There’s one subdivision that doesn’t have lot-size problems,” Stokes said, “but the lots are valued at \$2,500 and the mobile homes are valued at \$5,000. A septic system would cost \$10,000.”

TYLA members know this is a long-term project. “There is no way to do this in one year,” Stokes said. “This is a historical problem that no entity is working to address. Counties don’t provide sewage; cities do. These are unincorporated areas that are in urban areas but outside the city limits.”

One of the challenges of the project, Stokes said, is getting people in these communities to realize that substandard water and wastewater is a problem. “They don’t know enough about the issue to clamor for help and they don’t want to be annexed,” he said. “They also don’t have civic associations to voice their concerns.”

A few months ago, TSAWW project members met with Harris County Precinct 2 Commissioner Sylvia Garcia, who established a water and sewer work group and volunteered her staff to go door-to-door in the communities in an effort to educate residents. Garcia has also started discussing the issue at town hall meetings.

"In water planning, we tend to think of the short-term as 15 years and the long-term as 30-50 years. I've started gauging this project based on the age of my son, who was born seven months ago. I think, 'How old will he be when we accomplish this? How old will he be when we accomplish that?'" — REBECCA RENTZ

"Going forward is ultimately going to require money," Stokes said. So far, the committee has proved resourceful. Stokes learned that grants for the Galveston Bay Estuary Program, a division of the Texas Commission on Environmental Quality (TCEQ), were not being used and that funding would dry up in May. He successfully worked to amend the grant's terms and secured \$120,000 to fund preliminary engineering work on the four Harris County communities.

The nonprofit is currently working with two engineering firms, Turner, Collie & Braden (which is working on the largest of the four neighborhoods, Beaumont Place) and Dannenbaum Engineering (which is working on the other three). Both firms expect to complete their work by May.

"Once the engineering work is accomplished, the really hard part is securing grant money," Stokes said. "Ultimately this is not a water or sewer problem, but a money problem."

To that end, Stokes is pursuing Texas Water Development Board EDAP (economically distressed area) funds. Those funds were initially earmarked only for border regions, but are now open to urban areas.

The committee, in conjunction with the nonprofit, is also continuing to seek buy-in from the communities. "Right now, the people in these communities are not spending a dime," Stokes said. "But at some point, they're going to be asked to pay a sewage fee."

Finally, the committee is engaged in long-term planning for the operation

and maintenance of infrastructure as well as targeting other areas of the state where it might be able to help.

Strong reports there has been tremendous interest in the project. "We're planning for the future," he said. "We want to create a groundswell."

One of the challenges for TYLA is the long-term nature of the project and the comparatively short tenures of TYLA directors. "I'll be leaving TYLA this

year and Bob will be around only a few more years, which is why the nonprofit was created.

Rebecca Rentz, an associate with the Houston office of Bracewell & Patterson, L.L.P., has worked on both the TSAWW paper and a water grant for the Aldine Community Improvement District.

"The TYLA project required a lot of work by everybody involved," Rentz said. "The white paper doesn't provide the solution, but it gives a roadmap for attorneys to take. It provides the structure to help these communities."

Rentz hopes it will be a dynamic document. "In water planning, we tend to think of the short-term as 15 years and the long-term as 30 to 50 years. I've started gauging this project based on the age of my son, who was born seven months ago. I think, 'How old will he be when we accomplish this? How old will he be when we accomplish that?'"

Rep. Bailey is optimistic. "This has come so far," he said. "We've reached the point where we're talking about solutions."



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