

BRAUN & GRESHAM

ATTORNEYS AT LAW

S U C C E S S S T O R I E S

PURCHASE OF DEVELOPMENT RIGHTS

Good Guidance Makes for Good Stewardship

WHEN TEXAS' BEST CONSERVATIONISTS WANT EFFECTIVE EXPERTISE, THEY TAP THE ATTORNEYS AT BRAUN

James King has ranching in his blood. It was his great-great-great grandfather, Captain Richard King, who founded the legendary King Ranch and initiated a long history of land stewardship and acquisition in Texas by the Kings. The early developers of the King Ranch were pioneering leaders in conserving the state's natural habitats and, today, James King continues that tradition.

Through his firm, King Land & Water, King not only honors his heritage by holding the unofficial but well-earned title of Texas' premier conservation ranch broker, he does so by connecting sellers who have special property they want to preserve with buyers who want to own unique land and continue those protections.

When two Uvalde County landowners wanted their properties to be part of a City of San Antonio conservation program that helps safeguard the Edwards Aquifer – the main source of the city's drinking water – they called the best to help

them get it done. They called James King. And when King soon found himself faced with a complex matrix of players, motivations and interests, the best called Allison Elder, a conservation attorney with Braun & Gresham.*

King knew of San Antonio's Aquifer Protection Program – a unique initiative that uses voter-approved tax funding to purchase land and conservation easements over the Edwards Aquifer's recharge and contributing zones, in order to protect water quality and quantity for the city's almost two-million residents. Elder and the Braun & Gresham team are particularly well-versed in the law and language of conservation easements, an agreement between a landowner and a land trust – in this case, the City of San Antonio – in which the landowner limits how the land can be used in order to maintain its natural or other special



features. The landowner retains legal title to the property, but donates or sells the development rights to the land trust, and the land trust ensures the property is protected in perpetuity.

*formerly Braun & Associates

S U C C E S S S T O R I E S

“The ranching and farming legacy is huge here in Texas,” notes Kristyl Smith, special projects manager of the Aquifer Protection Program. “With conservation easements, that legacy is preserved, because the landowners can still do those types of activities on their properties, can still divide or sell them – but without the worry that these particularly sensitive properties are going to undergo the extra levels of development that could happen if we just continued with a laissez-faire approach.”

But the aquifer’s recharge zone alone consists of over 800,000 acres and the City has ‘only’ \$90 million to work with, so it must be selective about the land it invests in. It was here seasoned land broker King was able to offer immediate and invaluable insight to his two Uvalde County clients.

“Checking around, I realized their property alone wasn’t big enough to qualify for participation in the program,” remembers King. “So we came up with the idea of getting more neighbors involved and working in concert to present a bigger parcel.”

Ultimately, eight landowners signed on to the process, offering a total of 5,100 acres within the watershed for Blanco Creek, a key tributary of the Frio River. Made up of eight tracts between 340 and 1,200 acres, the parcel includes 4.3 miles of Blanco Creek frontage, as well as many draws, fissures, sinkholes and springs that allow rainfall to replenish the aquifer.

In this burgeoning mix of parties, attorney Elder served as a sort of lynchpin between the City, the landowners, and consulting nonprofit organizations The Nature Conservancy and Green Spaces Alliance. Indeed, Elder took on the titanic task of coming up with one conservation easement – a single set of restrictions for all eight properties, based upon the City’s template – that worked for everyone.

“It was a really difficult process,” King recalls. “Everyone had their own notions, and the City had not historically been too flexible. Allison had some unique expertise and insight due to her extensive experience with conservation easements and the program. She did a masterful job of bringing it down to earth for the landowners, hearing people’s issues and concerns, and turning them into legal terms the City would agree to. She really brought it all together.”

ABOUT THE AQUIFER PROTECTION PROGRAM

2000: San Antonio voters approve Proposition 3, a one-eighth-of-one-cent addition to the local sales tax to collect \$45 million to purchase properties located over the Edwards Aquifer within Bexar County.

2005: San Antonio voters approve Proposition 1, which extends the local sales tax addition to collect \$90 million to purchase properties located over the Edwards Aquifer recharge and contributing zones, well beyond Bexar County lines.

2009: The Aquifer Protection Program has secured protection of 93,000 acres of land over the recharge and contributing zones (about 12% of the total land located over the recharge zone), including more than 6,500 acres of parkland and natural area within Bexar County.

“Allison saved us all time, money and headaches,” echoes Smith. “She provided changes to the City’s model easement – some of which we’ve adopted permanently – that made the agreement better for the landowners without making it worse for the City. It was a delicate balancing act, but she was able to move all these independent spirits toward their common goal: helping preserve their land to protect the integrity of San Antonio’s water supply.”

When the last *t* was crossed and the final *i* was dotted, a handful of ranchland owners – well-equipped with the right guidance and know-how of both King and Elder – had made a real difference for the environment they cherish, as well as for millions of their fellow Texans, taking the term “good neighbor” to a whole new level.

“It was a great collaboration of a group of people who aren’t traditionally collaborators,” adds King. “It was a wonderful process, all about relationships, listening and collaborating – that’s how these things succeed.”