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**Date:** July 16, 2020 at 6:51:08 PM CDT

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**Subject:** Letter - July 16, 2020

Mr. Block:

I am deeply concerned and disappointed in your recent newsletter of Island Matters, July 15, 2020.

In your newsletter on June 26, 2020, you stated as a promise that "We are committed to keeping Island Matters 100 percent facts. No opinions whatsoever will appear in Island Matters."

Is omitting facts acting in a truthful manner? Is misrepresenting facts, truthful?

Your organization was completely aware of HB2439 at the time of publication and should have been provided legal opinion and TML legal opinion regarding it. This is referenced by an email on June 4<sup>th</sup>, 2020 from [susan@powc-spi.org](mailto:susan@powc-spi.org).

A simple google search would have provided you many other factual information regarding HB2439.

Your email on July 15th omitted the following facts:

The planning director failed to educate the DSRTF on HB2439, which went into effect September 1, 2019.

The planning director encouraged the DSRTF to violate State Law, without their knowledge, placing each member liable individually.

The planning director placed the City of South Padre Island in legal jeopardy on several occasions, as HB 2439 removed immunity for violations, this includes the members of the DSRTF personally.

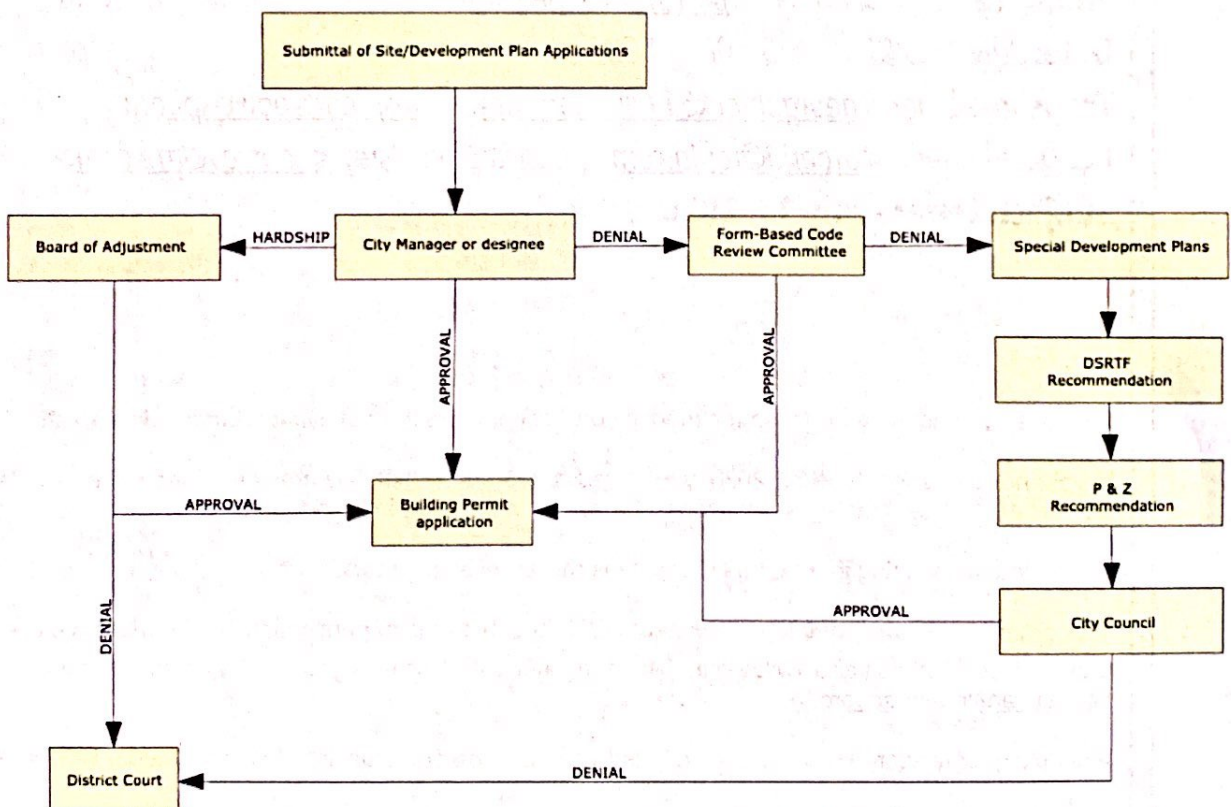
HB2439 specifically states "that a governmental entity, including a city, may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that: (1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or (2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. See TEXAS GOV'T CODE Section 3000.002(a)(1) & (2)."

The DSRTF requirement to force a building owner to use an aluminum roof is a direct violation of State Law.

The flow chart that was included in your newsletter also is a false as to the review process. Below is the correct flow chart for your records. Which can easily be found at [https://www.myspi.org/egov/documents/1450213072\\_50612.pdf](https://www.myspi.org/egov/documents/1450213072_50612.pdf). Or again a simple google search "South Padre Form Based Code"

City of South Padre Island

### PADRE BOULEVARD AND ENTERTAINMENT DISTRICT CODE IX. DEVELOPMENT REVIEW PROCESS



Your newsletter falsely stated that DSRTF is a Variance board, which in fact it is not.

The planning director falsely represented to the DSRTF that they were a variance board, which it is not.

Your newsletter appears to be implying that the City should not follow State law and should require property owners to build in prohibited manners and encouraging the City to be placed in legal jeopardy. This is an extremely reckless action, especially for an organization that is for Trust, Respect and Stewardship.

I expect a full retraction of the newsletter on July 15 and a public apology regarding your organization's misrepresentation of facts. Failure to do so could be considered defamation of character and libel by representing your organization as a newspaper with journalistic integrity and the actions would appear to be intentional.

Sincerely,  
Patrick J. McNulty

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