

LONE STAR PROJECT

Fighting Back... with Facts



April 7, 2008

The Honorable Kim Brimer
Texas State Senate
1600 W. 7th St., Suite 650
Fort Worth, Texas 76102

Dear Senator Brimer:

As you know, Texas election law prohibits the use of campaign funds to be used for the purchase of real property, such as a house or condominium. ([Texas Ethics Commission, Section 253.038 of the Election Code](#)) Recently, the Texas Ethics Commission (TEC) ruled that former State Representative Toby Goodman violated this law by disguising mortgage payments made by his campaign as “rent” on an Austin area house that was bought using a loan secured by both Goodman and his wife. As a result of his illegal behavior, Mr. Goodman has been fined \$10,000 by the Texas Ethics Commission. ([Texas Ethics Commission, Sworn Complaint – Final Order 2608184](#))

When Mr. Goodman’s illegal activities were first disclosed in 2006, he indicated to the media that use of campaign funds disguised as rent to cover mortgage payments was a common practice by stating “other members are doing this ...” ([Austin American-Statesman, August 30, 2006](#)) In fact, this practice has been referred to in the press as the “Brimer loophole.” ([Fort Worth Star-Telegram, March 21, 2008](#)) Further, the TEC opinion in the Goodman case specifically references an advisory opinion ([Ethics Advisory Opinion No. 319](#)) issued at your request regarding the propriety of campaign payments for “rent” if a partition agreement is in place making the house or condo the exclusive property of a spouse. In their opinion on Goodman, however, the TEC makes clear that a partition waiver does not extend to cover property purchased with a loan that is all, or in part, secured by Members themselves. ([Texas Ethics Commission, Sworn Complaint – Final Order 2608184, Conclusions of Law, paragraphs 13, 19](#))

The Lone Star Project has conducted an examination of both your campaign filings to the TEC and of real estate transactions involving a luxury condominium located in Austin within the exclusive Westgate Towers. It is clear from official documents and transaction records, that you spent a number of years using campaign funds to further enrich yourself through the purchase and ultimate sale of the Westgate condo.

The Lone Star Project is an activity of the Lone Star Fund. Contributions or gifts to the Lone Star Fund are not tax deductible. All contributions are subject to the prohibitions and limitations of the Federal Election Campaign Act. Federal Law requires us to use best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.

Paid for by The Lone Star Fund, 6 E St, SE, Washington, DC 20003.
Not authorized by any candidate or candidate's committee.

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As the attached documents demonstrate, an exclusive Westgate condominium located at 1122 Colorado #1205 in Austin, Texas, was purchased in 1996, with funds from a loan in the amount of \$103,900. While your wife Janna holds the deed to the property, you helped secure the loan by serving as a “co-maker.” ([Ratification of Agreement in Contemplation of Marriage and Partition of Community Property, Article II](#)) From 1996 to 2007, monthly payments from your campaign account were made to Janna Brimer Realty in an amount totaling more than \$237,000 and were reported as “rent.” ([Texas Ethics Commission, Reports 1996-2007](#)) Documents further show that during all or part of that time you served on the Board of Directors for Janna Brimer Realty. ([Articles of Incorporation of Janna Brimer Realty, Inc.](#))

The Westgate luxury condominium was sold in 2007 for an amount you have refused to disclose. Documents from Travis County, however, list the tax appraised value of the property at \$250,180. ([Travis County Tax Statement, 2007 Property Tax notice](#)) It is fair to conclude, until you demonstrate otherwise, that the county appraisal represents the minimum value of the property and its minimum sale price. Assuming a sale price at the appraised value of \$250,180, a financial gain of over \$120,000 has been realized. Your own legal counsel, Ed Shack, conceded that you can eventually benefit from this real estate windfall when he “acknowledged that there is nothing to block politicians who leave office from benefiting from what was once separate property.” ([Fort Worth Star-Telegram, February 22, 2007](#)) So, the gain from the luxury condo sale combined with the improper campaign payments made to Janna Brimer Realty give you a total benefit of at least \$357,000.

Over the last three months alone, more than 17,258 Dallas-Fort Worth area residents have lost their homes due to foreclosure. ([Dallas Business Journal, March 13, 2008](#)) These Texas families were unable to use campaign money to cover their principal mortgage payments, much less to follow your practice and use contributor money to pay the cost of a second “investment” home located in the shadows of the State Capitol. Conversely, your recent personal financial statements indicate that since entering the Legislature in 1989 you have become a millionaire with considerable personal assets, including extensive property and stock holdings. Further, you have a balance of more than \$ 1.1 million in your campaign re-election account.

Given the TEC ruling on Toby Goodman and taking into account that in 2007 the Texas Legislature enacted further restrictions against “rent-to-own” schemes like the one you have engaged in ([Truitt’s Bill HB 3066 June 15, 2007 and Fort Worth Star-Telegram, March 21, 2008](#)), we respectfully call on you to surrender from your considerable wealth funds in the amount of at least \$357,000. This is roughly the minimum personal financial gain you realized by disguising the Westgate condo investment as campaign rent payments and then selling the property. We further call on you to contribute the surrendered personal funds to the Tarrant County Housing Partnership or another charitable organization in Tarrant County committed to helping families in need find safe and affordable housing.

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We look forward to your prompt reply so that we can adequately inform Senate District 10 voters of your intentions.

Sincerely,

A handwritten signature in blue ink that reads "Matt Angle". The signature is written in a cursive, flowing style.

Matt Angle
Lone Star Project Director