

ATTACHMENT A

Detailed Management / Legal Letter Regarding ZBA-2510-0008

BY EMAIL ATTACHMENT

Subject: ZBA-2510-0008 — Management and Legal Response Still Required / City-Created Procedural Uncertainty / Email and File-Sharing Workaround Under Protest / Record, Notice, Stay, ADA, Language Access, and Submission Defects

To: Aaron Rector, City Manager; L. Stanton Lowry, City Attorney

Date: May 21, 2026

Dear Mr. Rector and Mr. Lowry,

I did not receive a management or legal response to my May 19, 2026 request for executive and legal direction. Instead, I received staff-level responses from Ms. Hensley regarding email submission, file-size limits, file-sharing, and a request to clarify my ADA accommodation request.

Those responses do not cure the City-controlled procedural defects affecting **ZBA-2510-0008**. This is not a routine staff clarification issue.

The City controls the portal, agenda, hearing notice, staff report, Board packet, applicant submission method, record routing, case classification, ADA accommodation process, enforcement file, statutory stay record, and Final Notice status. The City's failure to answer those issues has created procedural uncertainty that places an undue burden on me as the applicant/appellant and directly affects my ability to prepare for a meaningful ZBA submission.

Ms. Hensley's May 20 email states that I may submit attachments by email "if I am unable to upload documents," and that "the public hearing notice and agenda, when posted, will reflect [my] request to appeal the decision of an administrative official." She later stated that the City's incoming email limit is 100 MB, that other services may have lower outgoing limits, and that I may use a file-sharing site if there are attachment issues.

That response confirms that the City is offering email or file-sharing as an alternative workaround after imposing a less-than-two-business-day submission deadline without first verifying that the ZBA upload system was functional or that the alternatives offered were viable. It does not answer the executive/legal issues directed to you.

In the past, I asked how supplemental materials should be submitted if the ZBA portal did not allow uploads. That question was never answered. Now, at the last minute, email or file-sharing is being offered as a mechanism without the City providing the technical, legal, and record-protection details necessary to make that alternative reliable.

Any use of email or file-sharing as a workaround is under protest and should not be treated as curing the City's failure to provide a functioning ZBA upload process, reliable receipt protocol, file-size limits, cross-filing confirmation, Board-packet confirmation, ADA accommodation decision, hearing-scope confirmation, staff report, agenda, or complete administrative record.

If I am expected to use a workaround, the City must assure that any submission outside the portal is reliable, traceable, properly filed, indexed, and not later mischaracterized. Otherwise, the City is shifting the burden onto the applicant after failing to provide the basic procedural structure required for a fair administrative appeal.

Ms. Hensley's email/file-sharing suggestion does not establish a reliable, verifiable, or legally sufficient record-submission protocol for a quasi-adjudicative ZBA appeal. The City controls the portal, email system, file-sharing acceptance, staff report, Board packet, official ZBA record, and transmittal process. Because my materials may need to be broken into multiple batches due to outgoing email limits, and because the City has not issued a formal receipt, indexing, record-placement, or technical-failure protocol, the City must provide a written certification before treating the May 21 deadline as enforceable for exclusion, waiver, timeliness, or record-completeness purposes.

A separate ADA and language-access accommodation request is being submitted to the City's ADA/504 Coordinator. The request concerns disability-related processing, organization, review, presentation, and language-access needs in a complex administrative appeal involving legal, zoning, enforcement, measurement, engineering, public-information, and procedural issues.

The timing of this request is directly tied to the City's unresolved process. If the City had timely provided a clear hearing date, direct applicant notice, a functioning submission method, the staff report, Board packet, hearing scope, presentation rules, and a point of contact for accommodation processing, I would have had a meaningful opportunity to raise and finalize accommodation and language-access needs earlier. Instead, the process remained uncertain through the failed May 4 setting, conflicting June notice, lack of visible upload access, last-minute email/file-sharing workaround, and still-unanswered record and hearing-scope questions.

Accordingly, the ADA / language-access request should not be treated as untimely, and the May 21 applicant submission deadline should not be enforced in a way that prevents meaningful participation, excludes materials, claims waiver, or shifts prejudice onto the applicant before the City provides a written accommodation decision and certified submission protocol.

The requested accommodation includes, without limitation, sufficient time and procedure to review the staff report and Board packet, ability to rely on written materials and exhibits, a clear presentation procedure, reasonable presentation-time accommodation, a brief pause or break if needed, and qualified Spanish-language assistance, certified if available, for the hearing and any related procedural conference.

If the City denies or modifies the ADA / language-access request, the City should identify the decision-maker, state the reason in writing, identify any alternative accommodation proposed, and confirm whether the denial or modification will be included in the official ZBA record.

Demand for City Certification of Electronic Submission and Record Management

I request a written **City Certification of Electronic Submission and Record Management** confirming the following:

1. **Official Submission Method** — Whether email and/or file-sharing to Ms. Hensley is the City's official authorized method for receiving **ZBA-2510-0008** applicant materials if the ZBA portal is unavailable or does not provide visible applicant upload access.
2. **Authorized Custodian** — The name, title, department, and contact information of the City official responsible for accepting, preserving, indexing, routing, and confirming receipt of submitted **ZBA-2510-0008** materials.
3. **File Size / Format / Batch Protocol** — The maximum file size per email, per attachment, per batch, and total submission; accepted file formats and versions; and whether the City will accept multiple numbered email or file-sharing batches.
4. **Security / Integrity / Preservation** — Confirmation that the City will maintain the security, integrity, access control, preservation, and record integrity of submitted materials consistent with City IT policy, applicable law, applicable retention duties, and recognized Texas public-sector information-security practices.
5. **File-Sharing Protocol** — If the City accepts third-party file-sharing, identification of the approved platform or confirmation that the City accepts responsibility for receipt, download, preservation, indexing, and routing of materials submitted through that platform.
6. **Timestamped Receipt** — Confirmation that the City will provide a written, timestamped receipt for each email, batch, file-sharing link, and file received, including file name, file size if available, date/time received, sender, recipient, and whether each item was accepted, rejected, inaccessible, corrupted, excluded, or not downloaded.
7. **Formal Indexing** — Confirmation that the City will create a numbered index of all applicant materials received and place that index into the official **ZBA-2510-0008** administrative record.
8. **Record Placement** — Confirmation that each submitted item will be placed into the official **ZBA-2510-0008** record, with identification of whether each item will be included in the staff report and Board packet.
9. **Cross-Filing** — Confirmation that relevant materials will be cross-filed into **ZBA-2510-0008**, **FENCE-2509-0188**, and **Code Case #2508-0551**.

10. **Packet Inclusion / Exclusion** — Confirmation that the City will identify any material excluded from the staff report or Board packet, the person who made the exclusion decision, and the legal or procedural basis for exclusion.
11. **Non-Waiver / Non-Admission** — Confirmation that use of email or file-sharing will not be treated as a permit resubmittal, plan revision, new application, waiver, admission, concession, variance-only election, agreement with the City's measurement origin, agreement with the nuisance classification, agreement that the April 21 Final Notice is valid, or agreement that the administrative record is complete.
12. **Technical-Failure Protocol** — Confirmation that if any email, attachment, file-sharing link, batch, or document is rejected, blocked, lost, corrupted, inaccessible, not downloaded, or not indexed, the City will notify me immediately and provide a working alternative method, and such technical failure will not be treated as applicant noncompliance or late submission.
13. **ADA / Privacy Handling** — Confirmation that ADA accommodation communications and disability-related information will be routed to the City's ADA/504 Coordinator or other authorized ADA personnel and will not be used to prejudice the ZBA merits, enforcement position, or administrative appeal.
14. **ADA / Language-Access Decision** — A written ADA / language-access accommodation decision from the City's ADA/504 Coordinator or authorized ADA decision-maker, including whether qualified Spanish-language assistance, certified if available, will be provided for the June 1 hearing and any related procedural conference.
15. **Deadline Abeyance Based on ADA / Submission Protocol** — Confirmation that the May 21 applicant submission deadline will be held in abeyance, or the hearing continued, if the City cannot provide a certified electronic submission protocol, staff report, Board packet, corrected notice, direct applicant notice confirmation, stay status, Final Notice status, and ADA / language-access decision in time for meaningful preparation.
16. **Deadline Protection** — Confirmation that if the City cannot provide this certification before the applicant deadline, the May 21 deadline will be held in abeyance, or the hearing continued, so that I have a reliable, indexed, verifiable, and ADA-accessible method to submit materials.

If the City cannot provide this certification, the record should reflect that the City imposed an applicant submission deadline without providing a reliable, secure, indexed, and verifiable method for submitting a large and disputed administrative record. Under those circumstances, the May 21 deadline should not be used to exclude materials, claim waiver, assert untimeliness, or shift prejudice onto the applicant.

Procedural Failures Reflected in the Record

The record now reflects multiple City-controlled procedural failures, including:

1. a prior represented May 4 hearing that did not occur, without formal notice or a written explanation reconciling that failure;
2. a May 14 public hearing notice with an internally inconsistent date, stating “Monday, June 6, 2026,” when June 6, 2026 is not a Monday;
3. no direct applicant notice received by me as of prior correspondence, despite two neighboring property owners now having received notice;
4. the ZBA portal still showing the case as “**ZBA Variance**” despite my written election of an administrative appeal;
5. incomplete or belatedly changed workflow items;
6. no visible applicant upload function for **ZBA-2510-0008**, despite staff stating the portal was set to allow uploads;
7. a two-business-day upload deadline imposed without a visible functioning ZBA submission system or timely written alternative method;
8. months of missing records, missing no-record statements, and unanswered record-placement questions;
9. imposition of a burdensome deadline without verifying that required submission tools were available or providing technical submission instructions; and
10. unresolved privacy, due-diligence, record-integrity, and file-receipt concerns regarding email or file-sharing submission of a large and disputed administrative record.

Since my prior correspondence, the portal appears to have changed in part. The workflow now appears to show “**Link To Code Case**” as passed, and the progress percentage appears to have increased. However, the portal still identifies the matter as “**ZBA Variance**,” still does not show a visible applicant upload function or available applicant action, and still does not show that “**Send Letter to Applicant**” has been completed.

A partial internal workflow change after the issue was raised does not cure the larger procedural defects.

For reference, the City’s own Zoning Board of Adjustment webpage states that the Board acts under Chapter 211 of the Texas Local Government Code and hears ZBA matters through the City’s established process. In **ZBA-2510-0008**, the City has not fully satisfied any of the material process obligations necessary for a fair administrative appeal in a complete, non-defective, and verifiable manner.

At most, the City has partially opened the case since first submitted, accepted fees, identified a potential hearing date, circulated some form of notice with the wrong date and not addressed to the applicant/appellant, and now offered email or file-sharing as a workaround in a limited staff response without the depth that a process like this requires.

Those partial acts remain defective or incomplete because the portal still identifies the matter as “**ZBA Variance**,” the upload process is not visible or functional, the applicant-letter workflow remains incomplete, the agenda and staff packet are not available, the public hearing notice contained an internally inconsistent date, I have not received direct applicant notice, the City has not confirmed the stay status or produced any imminent-peril certification, and the City has not confirmed that the appealed record and my supplements have been transmitted to the Board.

This is not a dispute over a gate alone. It is now a record-access, notice, stay, ADA accommodation, language-access, submission-method, and administrative-record integrity problem created by City-controlled process failures.

These issues also overlap with the pending Public Information Act / OAG record, including OAG Tracking ID **OR26020650**. I am not asking the Texas Attorney General to decide zoning merits, grant or deny relief, adjudicate the ZBA appeal, or determine whether the gate complies with the ordinance. The OAG relevance is limited to public-information compliance, missing records, missing no-responsive-record statements, withheld-record identification, record-placement records, portal/workflow records, and whether the City has produced or accounted for records it is using in an active ZBA/enforcement matter.

If the City continues to proceed toward the ZBA hearing while withholding, omitting, or failing to account for records responsive to pending PIA requests, I will include that issue in the pending OAG record and any supplemental OAG filing.

At this point, I still do not have the agenda, staff report, Board packet, hearing scope, City evidence list, City measurement basis, ZBA record-placement confirmation, ADA accommodation ruling, language-access ruling, or written confirmation whether the matter will be presented as an administrative appeal, variance, or both with alternative relief preserved. Submitting documents into that uncertainty risks later mischaracterization, exclusion, or waiver arguments.

Requested Management / Legal Response

My request stands. Please provide the City’s written management/legal position on the following immediately, and in any event before any applicant deadline, agenda posting, staff report, Board packet, corrected notice, or public posting occurs, whichever comes first:

1. whether Ms. Hensley’s email or file-sharing workaround is the City’s official accepted submission method for **ZBA-2510-0008**;
2. the maximum file size per email and per attachment;
3. the maximum total file size that may be transmitted by email or file-sharing;
4. accepted technical formats and versions for PDF, image, Word, spreadsheet, and presentation materials;
5. whether the City will accept multiple numbered email batches;

6. whether the City will provide or accept a secure large-file upload link if email limits prevent submission of a complete packet;
7. whether the City will provide written receipt identifying each file received, date/time received, and whether each file is included in the official ZBA record, staff report, and Board packet;
8. whether any materials transmitted under the City's email or file-sharing workaround will be treated strictly as **ZBA-2510-0008** administrative appeal materials and not as a **FENCE-2509-0188** permit resubmittal, plan revision, new application, waiver, admission, concession, or variance-only election;
9. whether submitted materials will be cross-filed into **ZBA-2510-0008**, **FENCE-2509-0188**, and **Code Case #2508-0551**;
10. whether the City will confirm which materials are included in the Board packet and which, if any, are excluded;
11. whether the staff report and Board packet will identify **ZBA-2510-0008** as an administrative appeal of the **April 21, 2026 Final Notice**, with any alternative variance relief preserved only in the alternative and without waiver;
12. when the agenda, staff report, and Board packet will be posted or made available;
13. what records, ordinances, measurements, photographs, staff determinations, comparator materials, enforcement records, or staff interpretations the City intends to rely on at the hearing;
14. whether **Code Case #2508-0551** remains stayed under Texas Local Government Code § 211.010(c);
15. whether any written imminent-peril certification has been transmitted to the ZBA;
16. whether the **April 21, 2026 Final Notice** remains active, stayed, suspended, withdrawn, satisfied by interim mitigation, or still being enforced;
17. whether the **May 14 public hearing notice** containing "Monday, June 6, 2026" has been corrected, withdrawn, supplemented, or replaced;
18. whether direct applicant notice has been provided to me and, if so, the method and proof of transmission;
19. whether the ZBA portal's lack of visible applicant upload access will be corrected;
20. whether the portal label "**ZBA Variance**" has been corrected or whether the City contends it does not control the case posture;
21. whether the workflow item "**Link To Code Case**" has been completed and what record was linked;
22. whether the workflow item "**Send Letter to Applicant**" has been completed, and if not, why not; and
23. who is responsible for processing and deciding my ADA / language-access accommodation request before the hearing.

To avoid any misunderstanding, my ADA accommodation request is clear. I requested reasonable accommodation under Title II of the Americans with Disabilities Act for disability-related needs affecting processing, organization, and presentation in a complex administrative appeal. The requested accommodations include: additional or reasonably extended presentation time; permission to rely on a written statement, exhibit index, visual exhibits, and written outline;

confirmation that written materials and exhibits will be accepted into the official record; written confirmation of order of presentation, time limits, and response procedure; timely access to the staff report and Board packet; a brief pause or break if needed; qualified Spanish-language assistance, certified if available; and identification of the City official or ADA coordinator responsible for processing, granting, denying, or modifying the request.

If the City needs additional information to process the ADA / language-access accommodation request, please identify the exact information needed, the person responsible for processing it, the deadline, and whether the City has a required form or procedure. A request for clarification does not relieve the City from processing the accommodation request before the hearing.

The City has created its own procedural uncertainty and controls the portal, staff packet, public notice, Board packet, hearing format, record transmission, and enforcement file. The City cannot fairly create uncertainty, decline to provide management/legal answers, and then shift the burden to the applicant to guess how to submit, what to submit, what issue will be heard, what record the Board will receive, and what evidence the City intends to rely on.

If the City expects me to submit materials before these questions are answered, please confirm in writing that any submission made under these unresolved conditions will not be treated as:

1. a waiver of my administrative appeal;
2. a variance-only election;
3. a permit resubmittal;
4. a plan revision;
5. a new application;
6. an admission of violation;
7. agreement with the City's measurement origin;
8. agreement with the City's nuisance classification;
9. agreement that the April 21 Final Notice is valid;
10. agreement that the record is complete;
11. agreement that the City has satisfied its stay, notice, ADA, language-access, or record-transmission obligations; or
12. acceptance that the City's email or file-sharing workaround cures the absence of a functioning ZBA upload process.

If the City cannot provide a reliable submission method, file-size limits, receipt protocol, staff report, Board packet, ADA / language-access accommodation decision, corrected notice, and hearing-scope confirmation before the current applicant deadline, I request that the applicant submission deadline be extended to a date no earlier than five business days after the City provides those items in writing.

I also request confirmation whether the June 1 hearing will be continued if the City cannot provide a reliable submission method, staff report, Board packet, ADA / language-access

accommodation decision, corrected notice, and official administrative record in time for meaningful preparation.

This correspondence is not a refusal to participate. It is a demand for a reliable, documented, legally sufficient process before the City proceeds toward the June 1 ZBA hearing.

If these issues remain unresolved, I preserve the right to provide a separate non-merits procedural notice to the Mayor and City Council for oversight purposes only. That notice would not request deliberation, discussion, vote, or action on the merits of the pending ZBA appeal. It would address only City-controlled process, notice, ADA accommodation, language access, record access, portal access, hearing logistics, and administrative-record integrity.

Nothing in this correspondence waives any rights, objections, ADA accommodation rights, language-access rights, Public Information Act issues, Open Meetings Act issues, enforcement-stay objections, Final Notice objections, measurement objections, notice objections, administrative-record objections, due-process objections, objections to exclusion of materials, any request for continuance, any right to seek judicial review, or any other available remedy.

Respectfully,

Carlos Velez Conty
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Keller, Texas 76248

ZBA-2510-0008 | FENCE-2509-0188 | Code Case #2508-0551
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