

Thank you Chairman Carona, members of the committee, for the opportunity to testify today.

My name is Tom Morin and I am the Publisher & President of the Daily Court Review newspaper in Houston, Texas. I am a fourth generation publisher and am honored to stand on the shoulders of my father, grandfather and great-grandfather and continue the tradition that they have built for over 122 years.

The Daily Court Review was founded in 1889 and serves as the newspaper of record for Harris County. We publish a wide variety of public notices, including civil suits, CPS cases, notice to creditors, tax foreclosure properties and storage facilities, to name a few. For over a century, we have been stewards for ensuring public notices are published in an accurate, verifiable and timely manner as well as being accessible to the public.

Regarding SB 690, we have serious concerns about the language in this bill that alters the method a consumer receives notice. The biggest concern we have is removing the public notice requirement in newspapers to become just an option, while posting the notice on an internet website which has not been clearly defined. Based on the language of this bill, a storage foreclosure notice posted on an internet website would be the *only* public notice. For decades, newspapers have been required by statutes in the State of Texas to follow specific guidelines and standards. So far, there have been very little standards, if any, that hold internet websites to post public notices in an online format.

The newspaper industry has four major issues:

Digital Divide: There are still Texans who either do not have access to the internet or do not access it, in particular, rural communities, elderly communities, lower income families and minority communities.

Independence: We would propose only having the notice provider publishing the notice. The current bill is akin to the analogy of the fox guarding the henhouse. Do we really want the storage industry, who has an economic interest in foreclosure, to be the ones in charge of notifying the public?

Verifiability: Currently, newspapers can provide a publisher's affidavit which lists the exact verbiage of the public notice, verifies the duration of the publication date and is notarized. If an internet website is down or otherwise inaccessible for a period of time, that would appear to make that verification impossible. There are also security and hacking issues to consider when posting public notices online which can alter the text of a notice.

Archivability: When a user of an internet website needs to access a public notice a year or more later, can we still access the notice? Will the notice still be posted on the internet website and will a user still be able to access it using current technology?

Add up these issues, especially access, and, as written, we have serious due process concerns about SB 690.

Currently, newspapers provide the best of both worlds for publishing public notices. As an industry, we have been heavily involved in the local community for generations, usually over 50 years, and have a built-in readership in which folks know where to go to access public notices. We provide a hard-copy newspaper which cannot be altered or hacked. Once the public notice is published in a newspaper, it is permanent. Since we recognize the shift in readership habits for some demographics, we post all of our public notices on our internet websites for free, thus continuing our tradition of easy access to the public. Newspapers cater to those consumers who cannot access the internet and rely on their newspapers for public notice information as well as those consumers who wish to access public notices online in an easy manner.

The statutes in the State of Texas that have been written for decades regarding public notices in newspapers should not be altered or discarded because they have worked – from a legal perspective and a consumer’s right to be informed. For example, over 10% of storage foreclosure notices are edited between the first notice and the second notice published in my newspaper. The reason for the edited notice is that the actual person being foreclosed, a family member or a friend will read the notice in our newspaper and will call the storage facility to pay for the back payments owed.

In fact, not only does my website provide all public notices published in our daily newspaper edition for free, with no registration required, but the Texas Press Association and the Texas Daily Newspaper (which comprises of almost all newspapers in Texas that meet the State of Texas statutory requirements for publishing public notices) have a free internet website that posts all of the public notices in the entire State of Texas. This website also has a sophisticated search option so that the user can simply type “storage” into the search field and all of the storage foreclosure notices will appear. The website has an archival capability to view previous months of public notices. Here is the URL:
www.txheadlines.com/index.php/public_notices/

There are storage websites being launched over the past month that charge users to view public notices which further precludes consumers from accessing public notices on the internet. The proposed bill as written would allow the posting of a storage foreclosure notice on any multiple number of internet websites. This option contrasts with the one, statewide, truly free access website that our industry provides.

The proposed statute changes would radically diminish the public notice for storage foreclosure auctions that has been the standard for a generation. The only beneficiary of the change in this statute is the self storage industry – not the lessor and certainly not the public.

Newspapers provide an important role in advising and protecting smaller self storage companies about complying with public notice statutes. Some of these mom and pop operations do not even have email, instead relying on fax machines, thus highlighting a digital divide in the storage industry. Their exposure in the event of litigation would increase under the bill as written.

Senator Carona’s office has graciously listened to our concerns and we are hopeful that we can help improve the bill as the process moves forward.

Thank you for your time and consideration.