

# BRAUN & GRESHAM

## ATTORNEYS AT LAW

### SUCCESS STORIES

#### LITIGATION

## Do the Right Thing

BRIAN AND KATE BUCK RESPECT THE LAND AND PLAY BY THE RULES. WORKING WITH PLATEAU BIOLOGISTS, THEY CAREFULLY MANAGE THEIR PROPERTY NEAR AUSTIN IN WAYS THAT SUSTAIN NATIVE FLORA AND FAUNA, INCLUDING A UNIQUE HILL COUNTRY BIRD, THE GOLDEN-CHEEKED WARBLER. THEIR MANAGEMENT PRACTICES FULFILLED ALL THE REQUIREMENTS TO QUALIFY FOR A WILDLIFE MANAGEMENT APPRAISAL, BUT THE TRAVIS COUNTY APPRAISAL DISTRICT DENIED THEIR APPLICATION. THE BUCKS ENLISTED BRAUN & GRESHAM AND TOOK THEIR CASE TO COURT.

In 1991, Brian and Kate Buck, both Austin natives, came back home after several years in Utah. Brian set up practice in physical medicine and rehabilitation. Kate now manages the practice in addition to orchestrating a family with six children. Early on, they began looking for a place in the country where they could take their kids camping and where eventually they could build a home. Brian and Kate have always been active in Boy Scouts and Girl Scouts, and they believe there are lessons about life children can only learn in the wide world of nature.



“We found this piece of land we both really fell in love with,” says Brian. “It bordered right next to Balcones Canyonland Preserve, which made it even more special for us.” They purchased five acres in the 35-acre low-density development, and for a number of years ran a few cattle on the property to maintain the agricultural tax appraisal that came with the land when they bought it. Later they switched from cattle to donkeys, because, as Brian says, “we

felt the donkeys had less impact on the land.”

Brian and Kate take their roles as land stewards very seriously, and they both knew there were ways to manage the property that would be of greater benefit to the wildlife and more in harmony with the management practices on the neighboring Balcones Canyonland. In 2001, they began working with biologists at Plateau Land & Wildlife to develop just such a plan. By switching from an agricultural

focus—which, in any case, was outmoded and had become inappropriate for their urbanizing area — they knew they would forego their ag appraisal, but they understood that the Texas Tax Code allowed them to switch to wildlife management appraisal, if they followed specific wildlife-friendly guidelines. “Given that we were directly bordering this large preserve, it made all kind of sense to us to work with Plateau to come up with a better way to take care of our land,” says Brian.

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

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CASSIE GRESHAM,

LEAD ATTORNEY, BRAUN & GRESHAM

## Go the extra mile

Over a period of several years, Plateau wildlife biologists Amy Greer and Steve Bender worked with Brian and Kate Buck on developing and implementing a management plan. They both have fond memories of working with Brian and Kate—and vivid if not so fond memories of being expert witnesses when the Bucks ultimately took their case to jury trial.

“Brian and Kate were wonderful to work with,” says Steve. “I spent many hours talking with them. They were very enthusiastic, and anything we suggested, they were willing to try. They are exactly the kind of landowners who should be managing for wildlife.”

The Bucks’ wildlife management plan involves providing supplemental water and shelter for birds and wildlife, strip mowing to encourage growth of native plants that produce food for native fauna, control of fire ants, and conducting annual spring bird surveys.

“They are very diligent and dedicated about managing their property,” says Amy. “They go the extra mile. Kate is especially interested in native plants, and they are both attuned to any kind of changes in avian communities. They watch for the occurrence of blue jays, grackles and cowbirds for instance, that negatively impact other songbirds of concern, such as the golden-cheeked warbler.”

Having, as Amy Greer puts it, “gone the extra mile,” Brian and Kate Buck applied to the Travis County Appraisal District for a wildlife appraisal on their property in 2004. Their application was denied, primarily on the grounds that their property was too small. The Bucks appealed. The appraisal district sent out an inspector to see the land and review their management plan in consultation with Plateau. Again, they were denied.

“At that point, we were very frustrated,” says Brian. “We felt like we had done everything totally by the rules and consulted with professionals on how to do it. I wasn’t very excited about going to court—as a physician, I’m naturally not crazy about lawyers or

lawsuits—but I didn’t see any other alternative, so we consulted with Plateau and Braun & Gresham, and they agreed to help us in the law suit.”

## “We think this is important”

Cassie Gresham, lead attorney for Braun & Gresham, with co-counsel Patrick Reznik, formerly with the Austin law firm of George & Brothers, L.L.P., began putting together the Bucks’ case. “This wasn’t about the taxes,” Cassie says, “It was about principle. The Bucks had done everything the Texas law required, and we felt what they were doing with their property was a benefit to the larger community, which is what a wildlife appraisal recognizes.”

You’d have to describe the Bucks and their expert witnesses as less than gung ho about going to court. “It was a nerve-wracking two days of testimony,” recalls wildlife biologist Steve Bender, “but it was ultimately worth the time.” Brian Buck echoes those sentiments: “It was no fun. The appraisal district lawyers got up close and personal scrutinizing our home life,” he says. “It really got ridiculous when they made allegations that our teenagers, just because they were adolescents, were a potential deterrent of our wildlife management plans. But we felt strongly that on principle we were in the right.”

After a four-day trial and deliberation, the jury ruled in favor of Brian and Kate Buck. “We were very fortunate that the jury agreed with us. The Plateau biologists made a strong case with their testimony and the attorneys who represented us were excellent. In this regard, they made a positive experience out of what was a very difficult time.”

Lead attorney Cassie Gresham believes the law suit was not only validation for Brian and Kate Buck but also for the core principles of the wildlife appraisal allowance in the Texas Tax Code. “At the end of the day, the jury did not dismiss the Bucks’ claim as inconsequential. They said, ‘Yes, we think this is important.’ What came out of this case is support from a jury showing that conservation really is important to the citizens of Travis County.”