



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

January 27, 1966

Col. Laurence T. Ayres
Executive Assistant
Emergency Resources Planning Committee
Austin, Texas

Opinion No. C-589

Re: Authority of members of the
Texas Association of Home
Builders to serve as State
Executive Reservists and Ad-
visors under the Emergency
Resources Management Plan.

Dear Sir:

You have requested the opinion of this office on the
following question:

"Can members of the Texas Association of
Home Builders serve as State Executive Reserv-
ists and technical advisors to the State High-
way Engineer in his proposed emergency position
of Director, Construction and Housing, in pre-
attack planning involving the State of Texas
Emergency Resources Management Plan without
violating so-called conflict of interest laws?"

The Emergency Resources Management Plan was created
pursuant to the provisions of Article 6889-4, Vernon's Civil
Statutes. In passing on the validity of this Plan, it was
held in Attorney General's Opinion C-455 (1965) that the Gover-
nor had the authority to create such a plan and, under the pro-
visions of Article 6889-4, Vernon's Civil Statutes, the Governor
had the authority to select persons to assume responsibility of
enforcing such orders, rules and regulations as may be necessary
to protect life and property in this State in case of natural
disaster, enemy action, or threat thereof.

Neither Section 33 of Article XVI of the Constitution of
Texas (prohibiting the accounting officers of this State from
drawing a warrant on the Treasury in favor of any person for
salary or compensation who holds at the same time any other

office or position of honor, trust or profit under this State or the United States), nor Section 40 of Article XVI of the Constitution of Texas (prohibiting the holding at the same time of more than one civil office of emolument) are applicable to members of the Texas Association of Home Builders, for the reason that such members do not hold any office or position under this State or the United States, nor do such members hold a civil office of emolument.

We have not been directed to any provision of the Constitution of Texas or any statutory provision which would prohibit members of the Texas Association of Home Builders from serving as State Executive Reservists and Advisors to the State Highway Engineer, in his position of Director of Construction and Housing in the Emergency Resources Management Plan adopted pursuant to the provisions of Article 6889-4, Vernon's Civil Statutes. Nor are we aware of any prohibition of such persons serving as such advisors. You are therefore advised that members of the Texas Association of Home Builders may be appointed to serve as State Executive Reservists and Advisors to the State Highway Engineer, in his position as Director of Construction and Housing in the Emergency Resources Management Plan, adopted pursuant to the provisions of Article 6889-4, Vernon's Civil Statutes.

SUMMARY

Members of the Texas Association of Home Builders may be appointed to serve as State Executive Reservists and Advisors to the State Highway Engineer, in his position as Director of Construction and Housing in the Emergency Resources Management Plan, adopted pursuant to the provisions of Article 6889-4, Vernon's Civil Statutes.

Very truly yours,

WAGGONER CARR
Attorney General

By 
John Reeves
Assistant

JR:ms

Col. Laurence T. Ayres, page 3 (C-589)

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman
Malcolm Quick
Phillip Crawford
Ivan Williams

APPROVED FOR THE ATTORNEY GENERAL

By: T. B. Wright