



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
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May 17, 1967

Honorable Joe Resweber  
County Attorney  
Harris County Courthouse  
Houston, Texas 77002

Opinion No. M- 76

Re: To what extent may the Harris County Commissioners Court regulate the construction and location of fire-fighting facilities and equipment installed and operated by a water control and improvement district or a fresh water supply district when it is proposed to locate such facilities and equipment in the areal confines of Harris County roads.

Dear Mr. Resweber:

In recent letters to this office you have requested an opinion in regard to the above referenced matter.

The answer to this question is dependent upon whether water control and improvement districts or fresh water supply districts are authorized to acquire and maintain fire-fighting facilities and equipment. While this authority was granted to such districts by statutory enactment (water control and improvement districts - Article 7880-1, et seq., Vernon's Civil Statutes); /fresh water supply districts - Article 7881, et seq., Vernon's Civil Statutes/, the Texas Supreme Court has held that those portions of the statutes granting such authority are unconstitutional as regards water control and improvement districts.

"Section 52, Article 3, specifies that water control and improvement districts may issue bonds for certain purposes. The purposes enumerated do not include the right to purchase, own and operate fire engines, fire-fighting equipment and appliances.

"Section 59(a), Article 16, the other constitutional amendment involved here, contains no language which would support a holding that the people in enacting the amendment contemplated that a water control and improvement district created for the purpose of conserving and developing the natural resources of the district would have the power to provide fire-fighting equipment and appliances for a town within said district.

"Both constitutional amendments specify the circumstances and purposes for which water control and improvement districts may be organized and the Legislature is without power to add to or withdraw from the circumstances and purposes specified. . . ." Deason v. Orange County Water Control and Improvement Dist. No. One, 151 Tex. 29, 35; 244 S.W.2d 981, 984 (1952).

The Deason case was cited with approval in Harris County Water Control and Improvement Dist. No. 39 v. Albright, 153 Tex. 94, 263 S.W.2d 944 (1954).

The holding in the Deason case, supra, is equally applicable to fresh water supply districts. Inasmuch as water control and improvement districts and fresh water supply districts do not have the authority to acquire and maintain fire-fighting facilities and equipment, the question as to the extent of the authority of the Harris County Commissioners Court to regulate such districts as regards the construction and location of such facilities and equipment is not reached.

The term "fire-fighting facilities and equipment" as used in the above holding is limited to fire engines, fire stations and the necessary and usual equipment and appliances therefor.

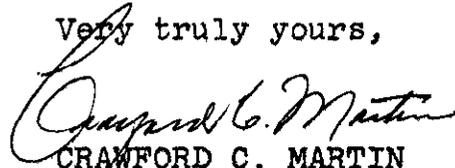
Such districts have the power to erect and operate a sewage disposal plant. Parker v. San Jacinto County Water Control and Improvement District No. 1, 154 Tex. 15, 273 S.W.2d 586 (1954). If the districts, acting in pursuance to its express and implied powers, desire to lay water lines, install outlets for dispensing water and other necessary appurtenances, to be located within the areal confines of the county roads, the Commissioners Court may require that the plans and specifications relative thereto, be submitted to the County Engineer prior to the construction thereof. Attorney General's Opinion No. M-56 (1967), mailed to you on April 10, 1967.

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S U M M A R Y

Water control and improvement districts and fresh water supply districts do not have the authority to acquire and maintain fire-fighting facilities and equipment and thus the question as to the extent of the authority of the Harris County Commissioners Court to regulate such districts as regards the construction and location of such facilities and equipment is not reached. The laying of water lines and necessary appurtenances, in carrying out its express and implied powers, within the areal confines of county roads is controlled by Attorney General's Opinion M-56 (1967).

Very truly yours,

  
CRAWFORD C. MARTIN  
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APPROVED:  
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