



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN
ATTORNEY GENERAL

July 12, 1968

Hon. Jimmy Morris
County Attorney
Navarro County
Corsicana, Texas

Opinion No. M-254

Re: Whether a voter in a liquor election in a city must reside for six months under Article 5.07 of the Election Code to be qualified to vote or merely qualify to vote under Article 5.02 of the Election Code?

Dear Mr. Morris:

In your request for an opinion you state the following:

"A county calls for a liquor election in a city. In order to be qualified, must a voter reside in the city for six months under article 5.07 of the Election Code or may a voter qualify under article 5.02 of said code?

". . ."

Tex.Const., Article VI, Section 2, and Article 5.02 of the Election Code of Texas provide that a person is qualified to vote in an election if he has resided in the State one year next preceding an election and the last six months within the district or county in which he offers to vote. Article 5.02 expressly provides that it applies to all elections, including those held by a municipality.

In Duncan v. Willis, 302 S.W.2d 627 (Tex.Sup. 1957), the voter had not lived in the school district for six months but had lived in the state one year and in the county six months. In holding the voter to be qualified, the Supreme Court of Texas held:

"An elector must be a resident of the state for one year, resident of the county for six months, and a resident of the subdivision of the county (such as school district) wherein he votes at the time he votes, but not necessarily for six months." (302 S.W.2d 631).

Cramer v. Graham, 264 S.W.2d 135 (Tex.Civ.App. 1954, no writ); Warren v. Robinson, 32 S.W.2d 871 (Tex.Civ.App. 1930, no writ); and 21 Tex.Jur.2d 261, Elections, § 33, support this proposition.

In King v. Carlton Independent School District, 156 Tex. 365, 295 S.W.2d 408, 411 (1956), the Supreme Court of Texas made the following pertinent holding:

"Article VI, Section 2, of the Constitution defines a qualified voter in this language:

"Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote shall be deemed a qualified elector; * * *

"Any qualified elector, as defined by that Article, is entitled to vote in any election other than one for which additional qualifications are prescribed by some other provision of the Constitution. The Legislature was not authorized to prescribe any other standard for voters at the adoption election than that of qualified electors as defined by Article VI, Section 2. . . ."

Hon. Jimmy Morris, page 3 (M-254)

The Texas Constitution does not prescribe any other qualifications for a voter in a liquor election.

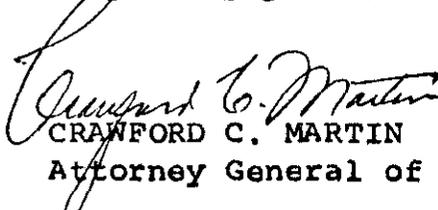
Article 5.07 of the Election Code of Texas is not applicable to a liquor election but applies only to the election of municipal officers and to elections to determine the expenditure of money or assumption of debt or issuance of bonds.

An elector is qualified to vote in a liquor election in a city if he meets such requirements of Article 5.02.

S U M M A R Y

In a liquor election in a city, a person is qualified to vote if he has resided in the State one year next preceding the election, in the county for six months preceding the election, and is a resident of the city at the time of the election, and otherwise qualifying under Article 5.02 of the Election Code. Article 5.07 of the Election Code is not applicable to a liquor election.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Jack Sparks
Assistant Attorney General

APPROVED:
OPINION COMMITTEE
Hawthorne Phillips, Chairman
Kerns Taylor, Co-Chairman
Jim D. Vollers
Pat Cain
Robert Owen
Malcolm Quick
A. J. CARUBBI, JR.
Executive Assistant