

JURISPRUDENCE COMMITTEE
TEXAS SENATE

Senator Gene Green
Chairman
Senator Bob Glasgow
Vice Chairman
Senator Temple Dickson
Senator O.H. Harris
Senator Don Henderson
Senator Cyndi Krier
Senator John Montford

Vada Dillawn
General Counsel
Mary Foley
Committee Clerk



ID# 13331
MJ

August 7, 1991

RQ-150

Ms. Susan Garrison
Acting Chairman
Office of the Attorney General
Supreme Court Bldg., 5th Floor
Austin, Texas

RECEIVED

AUG 21 91

Opinion Committee

RE: Attorney General's Opinion

Dear Ms. Garrison:

As Chairman of the Senate Jurisprudence Committee, I would like to request an Attorney General's opinion regarding the extent that a public housing authority, under state law, may regulate the ownership and possession of firearms by its tenants. It has come to my attention that the San Antonio Public Housing Authority is considering the promulgation of rules that would evict any tenant from such public housing projects if the tenant possessed a firearm, including eviction for the possession of a firearm found in the tenant's home. Such rules may be incorporated into the tenant's lease agreement.

In 1985, the legislature enacted a law that limits a municipality's power to govern the possession of firearms. See Loc. Govt. C., Sec. 215.001. Under this section, a "municipality may not adopt regulations relating to the transfer, private ownership, (or) keeping... of firearms," with some exceptions. Therefore, it appears that some confusion still exists as to the extent a public housing authority may regulate the possession of firearms under state law. Also, constitutional issues may be raised with respect to a tenant's right to "keep and bear arms." See Tx. Const. Art. I, Sec. 23.

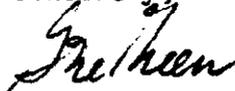
Therefore, please issue an opinion regarding the following issues:

1. Whether or not the public housing authority of a municipality is subject to Sec. 215.001 of the Local Government Code in the determination of its tenant policies;
2. Whether or not a public housing authority has the authority under state law to control the ownership and/or the possession of firearms in the public housing that it regulates;

3. Whether or not the rules promulgated by the San Antonio Public Housing Authority regulating the possession of firearms, including the possession of a firearm in one's home, by a tenant of public housing violates a tenant's constitutional right to "keep and bear arms" under the Texas Constitution, Art. I, Sec. 23?

Your attention to this matter is greatly appreciated.

Sincerely,



Gene Green

GG/rps