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FILE # RQ-01015-DM October 22, 1997
I.D. # 39877

The Honorable Dan Morales
Attorney General
State of Texas
P. O. Box 12548
Austin, TX 78711

RQ-1015

RECEIVED
OCT 27 1997
Opinion Committee

Re: Referendum on Stadium Tax Authorization
Op. Req. No. 1002

Dear General Morales:

This letter supplements my letter to you dated September 30, 1997, a copy of which is attached as "Exhibit A."

For purposes of this supplement, please consider the following facts:

1. Harris County conducted a county-wide referendum in November, 1996 seeking to authorize the county to "establish and operate new or renovated stadiums, arenas..." The referendum, with its limited authority, narrowly passed.
2. The referendum's ballot proposition made no reference to the City of Houston as a participant in a proposed sports authority. (See "Exhibit B")
3. No City of Houston city-wide referendum was or has been held as several portions of the City of Houston are in other contiguous counties (eg., Montgomery County to the north and Fort Bend County to the south.) The out-of-Harris County, City of Houston residents had no vote in the November, 1996 referendum.
4. By recent resolution of the Houston City Council, the city joined with Harris County in operating the "Harris County - Houston Sports Authority." (See "Exhibit C") You will note that in Section 2, page 2, of "Exhibit C" the "boundaries of the Authority shall be coextensive with the combined boundaries of the city and the county."

House Bill 92, under which such authorities are to be organized and operated, provides in Section 7 that only counties can be exempt from the full requirements of the Act if a prior election has authorized creation of an authority. There are extensive and specific requirements in House Bill 92 with which a city or municipality must comply (including a city-wide referendum) before the city can establish or participate as an operator of a sports authority. For example, Sections 334.021(1) and 334.024 provide for certain tax determinations by the state comptroller before the municipality can order an election. There is no record of the City of Houston having obtained these determinations. Consequently, other than the attached council resolution, the City of Houston appears not to have complied with any of the statutory requirements – in particular the holding of a city-wide referendum – and it therefore appears the City of Houston is not validly a participant in the aforesaid sports authority.

In our assertion that Section 7 of the Act does not grant any exemption to any city or municipality, we raise an issue of statutory construction.

The basic rule in construing Texas statutes is declared in Government Code §311.011: “(a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.” There is no ambiguity of terms or tortuous context that reasonably can construe Section 7 as granting statutory exemption to a city or municipality from the requirements of the Act. Section 7 specifically provides: [An election is not necessary] “if, at an election held before the effective date of this Act, the voters of that county...authorized the establishment and operation of new or renovated stadiums, arenas...” (Emphasis added).

It also is a time-tested and well-followed rule of construction that an act should have the same meaning throughout the state; there is no justification for giving it one meaning in a certain jurisdiction and a different meaning in other jurisdictions. *Townsend v. Terrell*, 118 Tex 463 (1929). Hence, there is no valid or lawful justification for the City of Houston participating in the operation of the subject sports authority without providing all city residents the opportunity for elector approval or disapproval of the authority and means of funding. All other Texas cities or municipalities proposing sports venues would have to comply with the referendum requirement and all other provisions mandated by House Bill 92.

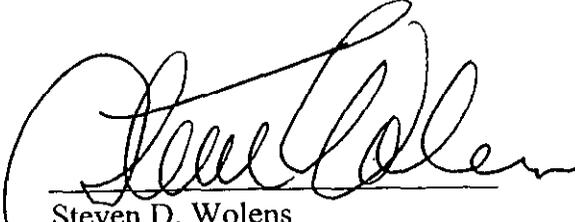
Therefore, in addition to the questions posed to you in our letter on the same subject, dated September 30, 1997, we request your opinion as to the following:

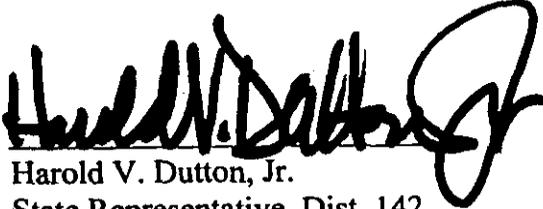
1. Can the City of Houston lawfully participate in and operate the Harris County - Houston Sports Authority without conducting a city-wide referendum prior to the effective date of House Bill 92 (in accordance with Section 7), and without complying with the other qualifying requirements for a city or municipality in the Act?

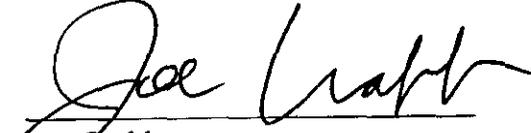
2. Can the City of Houston lawfully participate in and operate the Harris County - Houston Sports Authority without conducting a city-wide referendum subsequent to the effective date of House Bill 92 (in accordance with Section 7), and without complying with the other qualifying requirements for a city or municipality in the Act?
3. Can the City of Houston, which is partially in Fort Bend and Montgomery Counties, through a concurrent order with Harris County, disfranchise the non-Harris County-City of Houston residents of their right to vote in a referendum concerning the sports authority established under House Bill 92?

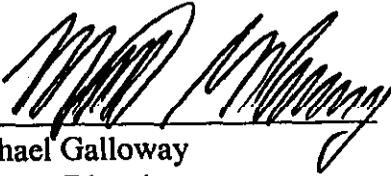
With kind regards,


Senfonia Thompson.
State Representation, Dist. 141
Chair, House Judiciary Committee


Steven D. Wolens
State Representative, Dist. 103
Chair, House State Affairs


Harold V. Dutton, Jr.
State Representative, Dist. 142


Joe Crabb
State Representative, Dist. 127


Michael Galloway
Senator, Dist. 4

Enclosures