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OPINION COMMITTEE



STATE of TEXAS
HOUSE of REPRESENTATIVES

FILE # ML-45670-08

I.D. # 45670

JOE DESHOTEL
STATE REPRESENTATIVE
District 22

DISTRICT OFFICE:
ONE PLAZA SQUARE, SUITE 203
PORT ARTHUR, TX 77642
(409) 724-0788

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TX 78768-2910
(512) 463-0662
FAX: (512) 463-8381
joe.deshotel@house.state.tx.us

April 29, 2008

ATTN: Nancy Fuller
The Honorable Greg Abbott
Texas Attorney General
Office of the Attorney General
PO Box 12548
Austin, TX 78711

RQ-0711-GA

Re: Request for Attorney General Opinion Ref. Application of § 253.011.
of the Local Government Code **Conveyance to Nonprofit Corporation for
Public Use** to the Transfer of Firestation to a Non-Profit Public
Radio Station by the City Council of the City of Port Arthur

Dear Mr. Abbott:

I am writing to request your office's opinion on behalf of an issue facing Port Arthur, Texas.

The City of Port Arthur is planning to relocate a fire company to a new facility. The City Council is considering conveying the prior fire station and property to a public radio station (The Breeze - KSAP 107.1, LPFM). Said conveyance will be based on § 253.011 of the Local Government Code as referenced. The estimated value of the fire station and property is approximately \$125,000 and the City has spent over \$ 139,000 in renovations and building repairs, subsequent to Hurricane Rita in September 2005.

At issue, is whether the transfer of the fire station property to said corporation is an eligible, legal, activity based on the requirements set forth by § 253.011 of the Local Government Code Conveyance to Nonprofit Corporation for Public Use, specifically sub-section (d) which "...requires the nonprofit organization to use the property in a manner that primarily promotes a public purpose of the municipality...". Does a nonprofit radio station constitute an activity that primarily promotes a public purpose of a municipality as required by the statute?

The radio station does provide a general benefit to the community, however the council is split on whether or not these benefits rise to the level of primarily promoting a public purpose of the municipality particularly in light of the City of Corpus Christi v. Bayfront Association, Ltd. in

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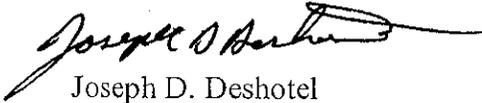
which the court ruled that cities might not expend public funds simply to obtain for the community the general benefits resulting from the operation of the corporate enterprise.

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Based on the foregoing information, and the concerns raised by potential City Council action, I am requesting an Attorney General Opinion to provide answers to these questions.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph D. Deshotel", with a long horizontal flourish extending to the right.

Joseph D. Deshotel
Chairman
House Economic Development Committee