



THE TEXAS HOUSE OF REPRESENTATIVES

CHAIRMAN Local Government Ways and Means

Transportation

Legislative Budget Board

FRED HILL

June 16, 2003

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OPINION COMMITTEE

Ms. Nancy Fuller
Chair of the Opinions Committee
Texas Attorney General's Office
P.O. Box 12548
Austin, Texas 78701

FILE # ML-43145-03
I.D. # 43145

Re: Texas Alcoholic Beverage Code Section 109.33(e)

Dear Ms. Fuller,

Texas Alcoholic Beverage Code Section 109.33(e) provides that "(T)he governing board of a city . . . may also allow variances to the (spacing requirement) if the . . . governing body determines that enforcement . . . in a particular instance is not in the best interest of the public; constitutes waste or inefficient use of land or other resources; creates an undue hardship on an applicant for a license or permit; does not serve its intended purpose; is not effective or necessary; or for any other reason the . . . governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community."

May the city council delegate the power to grant these variances to a city board? Does the answer depend upon whether standards are developed to guide the board in making it's decision?

Sincerely,

Fred Hill

cc: Larry Casto, Assistant City Attorney, City of Dallas