

TEXAS HOUSE OF REPRESENTATIVES

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MIKE KRUSEE

CHAIRMAN, HOUSE COMMITTEE ON TRANSPORTATION

COMMITTEES:
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OPEN RECORDS DIVISION

November 18, 2003

RQ-0137-GA

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NOV 25 2003

OPINION COMMITTEE

The Honorable Greg Abbott
Texas Attorney General
209 West 14th Street
Austin, TX 78701

FILE # ML-43351-03
I.D. # 43351

Dear General Abbott:

I would like to formally request an Attorney General's Opinion to clarify whether a county may enter into land purchase and lease agreements without entering into competitive bidding.

I have attached supporting documentation that will provide further details surrounding this issue. If you have further questions, please contact Wendy Reilly in my office.

Sincerely,

Mike Krusee



District 52



**Kerrville Municipal/County
Airport/Louis Schreiner Field (ERV)
Kerrville, Texas, USA**

**Airport Manager
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028
Phone: 830.792.8314
Fax: 830.896.8793
Email:**

November 5, 2003

**The Honorable Mike Krusee
Chairman
House Transportation Committee
P.O. Box 2910
Austin, TX 78768-2910**

Re: Attorney General Opinion Request

Dear Chairman Krusee:

I am the Airport Manager for the Kerrville Airport, a public use airport jointly sponsored by the City of Kerrville and County of Kerr.

We are in the process of developing our facilities and need your assistance in obtaining an Attorney General Opinion to clarify whether the county may enter into land purchase and lease agreements without entering into competitive bidding. The land in question is part of our airport. It will be subject to be purchased, developed and leased to a company, enterprise or individual for aviation purposes.

It is contemplated that a hangar and other facilities are to be constructed on airport property and leased to a private operator whom has agreed to conduct aviation business from its location. Additionally, lease renewals for existing tenants are to be considered. The rates for lease renewals and/or new land leases are established by local property comparisons and other "like airports" for "like services". The net result is that established rates are fair market value (FMV). Likewise, appraisals are also sometimes used to determine FMV. None-the-less the services and/or products provided are necessary to the aviation community and users of our airport. They will generate tax revenues from the personal property and improvements. In all, there is no discrimination or favorable terms offered to one individual over another. Basically, the public is offered land to lease for construction of aviation activities at the airport at FMV, after which, the individual businesses may renew and/or extend their leases upon request so long as they are at FMV rates.

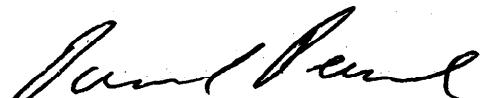
Our airport has received federal funds for improvements during its history of operation, thus subjecting it to the rules and guidelines promulgated by the Federal Aviation Administration. These apply to the airport property until it is no longer used as an airport.

We have an issue that needs a final determination of some sort before we construct, lease or renew leases for new or existing facilities. We need to confirm that leasing to one company, without intent to exclude any other enterprise (as provided in FAA guidelines - enclosed),

would not violate the bidding process requirement according to the Texas Local Government Code.

Included in this request are: Attorney General Opinion, AGO No. JM-569 (not directly on point) issued in 1986, relevant portions of the Texas Local Government Code as amended in 1987 and portions of the FAA guidelines which deal with exclusivity. While AGJM-569 addressed a similar issue, we believe the issue was not specific to our circumstance, thus our situation requires further consideration.

Please let me know if I can provide anything further. Thank you in advance for your assistance in this matter.



Dave Pearce

Cc: Rep Harvey Hilderbran
Senator Troy Fraser