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APR 28 2005

Robert L. Maxwell, Executive Director
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APR 29 2005

OPINION COMMITTEE

OPEN RECORDS DIVISION

April 26, 2005

RR-0340-6A

The Honorable Greg Abbott
Attorney General
State of Texas
P.O. Box 12548
Austin, Texas 78711-2548

FILE # ML-44200-05
I.D. # 044200

Re: Request for Formal Opinion

Dear General Abbott:

In February, 2005, the staff of the Texas State Board of Plumbing Examiners (Board) was made aware that a conflict exists between the legislation passed in the 78th Legislative session and the Texas Occupation Code, as published by West in 2004. The conflict was raised because of the potential impact to a City of El Paso resolution regarding the status of plumbing inspectors.

I asked our Administrative Law Division liaison for his opinion on the matter. In the interest of time before the city resolution vote, the matter was referred to the General Counsel division of the Office of the Attorney General. Audrey Knight, of your General Counsel division, generated the attached opinion which we believe adequately explains the issue at hand.

As part of that opinion, she stated that we could seek a formal opinion of the issue, if desired. On the April 11, 2005 meeting of the members of the Texas State Board of Plumbing Examiners, the Board voted unanimously to request such an opinion.

The Board is requesting that your office provide a formal opinion, as permitted by TEX. GOVT. CODE ANN. §402.042 (West 2004), as to the controlling language for Texas Occupations Code 1301.002, the definitions section, and/or any other conflicts between the legislation as passed and the "Plumbing License Law" as published. Our specific concern, answered in the March 1, 2005 letter from Ms. Knight, dealt with third party plumbing inspectors. Our present and more general concern is whether HB 3507, or Chapter 1276 of the Session Laws, or SB 282, or Chapter 819 of the Session Laws from the 78th legislative session when read together create a conflict that was correctly interpreted by West in the 2004 edition of the Occupations Code, or whether the two bills can be harmonized to provide the full range of amendments called for under HB 3507 and SB 282.

Please do not hesitate to contact me if I may provide any additional information.

Sincerely,

Handwritten signature of Robert L. Maxwell in black ink.
Robert L. Maxwell
Executive Director

Enclosure

cc: Members, Texas State Board of Plumbing Examiners
Kevin Hamby, Assistant Attorney General, Administrative Law Division
Audrey Knight, Assistant Attorney General, General Counsel Division