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OPINION COMMITTEE

PRESIDENT PRO TEM
OF THE TEXAS SENATE
2004 - 2005

COMMITTEES

Jurisprudence, Chairman
Administration
Intergovernmental Relations
Transportation and Homeland Security

**The Senate of
The State of Texas**

December 20, 2005

COUNTIES IN
SENATE DISTRICT 25

Bexar (north) Hays
Comal Kendall
Guadalupe Travis (south)

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OPEN RECORDS DIVISION

The Honorable Greg Abbott
Attorney General of Texas
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

FILE # ML-44532-05
I.D. # 44532

RQ-0426-GA

Re: Whether a city building official may rely on a professional engineer's seal and certification that a plat or plan submitted complies with the city's building codes?

Dear General Abbott:

The purpose of this letter is to request an opinion on whether a city building official may rely on a professional engineer's seal and certification that all code provisions, specifically the International Residential Code ("IRC"), Chapter 214, Subchapter G, Local Government Code, as adopted by the city, have been met.

In my senate district, a housing subdivision was allegedly designed and constructed in violation of city code and the IRC. Pursuant to IRC R104.1, the city building official is authorized to enforce the IRC, as well as to render interpretations of the code and adopt policies and procedures to clarify the application of its provisions. The city building official where the subdivision is located contends that he has no responsibility to ensure plans conform to the IRC as adopted by the city if the plat or plan is certified and sealed by a professional engineer.

Texas Occupations Code Section 101.402 states that "a public official of the state or of a political subdivision of the state who is responsible for enforcing laws



The Honorable Greg Abbott

December 20, 2005

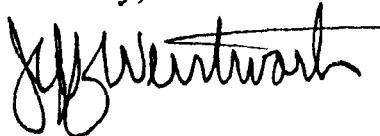
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that affect the practice of engineering may accept a plan, specification, or other related document only if the plan, specification, or other document was prepared by an engineer, as evidenced by the engineer's seal," but does not specify whether said public official may rely on the engineer's seal and certification that the engineer's plans are in compliance with all laws and codes.

Texas Board of Professional Engineers Rules §137.59 and §137.63 provide that a professional engineer "shall endeavor to meet all of the applicable professional practice requirements of federal, state, and local statutes, codes, regulations, rules or ordinances in the performance of engineering services" and "shall practice... in conformance with standards, laws, codes, and rules and regulations applicable to engineering practice."

I respectfully request an opinion on whether a city building official may rely on a professional engineer's seal and certification that a plat or plan submitted complies with the city's building codes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Wentworth", written in a cursive style.

Jeff Wentworth

Chairman

Senate Jurisprudence Committee

JW/kh