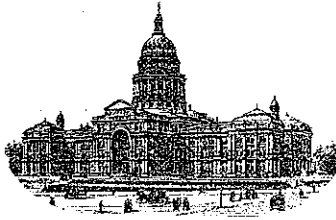


TEXAS HOUSE OF REPRESENTATIVES

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OPINION COMMITTEE

JOHN E. DAVIS
STATE REPRESENTATIVE
DISTRICT 129

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OPEN RECORDS DIVISION

July 22, 2011

The Honorable Gregg Abbott
Attorney General of Texas
300 West 15th Street
Austin, Texas 78701

FILE # ML-46797-11
I.D. # 46797

Attention: Opinion Committee

RQ-0989-GA

RE: Obligations of Clear Lake City Community Association, Inc. Regarding Meetings by Telephone Conference Call under Chapter 551 of the Texas Government Code, and Sections 6.002 and 22.002 of the Texas Business Organizations Code

Your Honor and Members of the Committee:

On behalf of Clear Lake City Community Association, Inc. (hereinafter "the Association"), I respectfully request your opinion regarding attendance at meetings of the Association's Board of Trustees, via telephone conference call. As you are aware, Section 551.0015 of the Texas Government Code was amended by House Bill 3674 making the Association subject to the Texas Open Meetings Act ("the Act").

Recently, a meeting was held by the Association's Board of Trustees, at their usual location, whereby a quorum of Trustees was present. Eight (8) of the nine (9) Trustees attended the meeting, in person. Only one (1) Trustee participated in the meeting by telephone conference call ("speaker phone"), which was fully audible to all persons present. It is unclear whether one person attending by telephone conference call gives rise to "a meeting held by telephone conference call", per the Act, and whether Section 551.125 would govern in this scenario. If one Trustee participating by telephone conference call does qualify as "a meeting held by telephone conference call," then the question becomes whether the Association may legally rely upon statutes other than the Texas Government Code, as authority to allow attendance by one or more Trustees by telephone conference call.

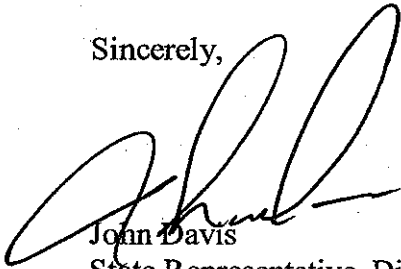


CHAIR: ECONOMIC & SMALL BUSINESS DEVELOPMENT
MEMBER: ENERGY RESOURCES

It is the Association's position that statutes other than the Texas Government Code provide authority for one or more Trustees to attend meetings via telephone conference call. The Association is a domestic entity (non-profit corporation) originally formed under the Texas Corporation Act, now re-codified as the Texas Business Organizations Code. Specifically, the Association is relying upon Section 6.002 "Alternative Forms of Meetings" and Section 22.002 "Meetings by Remote Communications Technology" of the Business Organizations Code as providing statutory authority for one or more Trustees to attend regular meetings by telephone conference call. Prior to January 1, 2010 when the Texas Non-Profit Corporation Act expired, the Association relied upon TNPCA Art. 1396-9.11 "Meetings by Telephone Conference or Other Remote Communications Technology" as authority to meet in such fashion.

Accordingly, the Association respectfully requests the Office of the Attorney General to determine whether (i) the attendance at a meeting by one or more Trustees, via telephone conference call, necessarily gives rise to "a meeting held by telephone conference call" as such phrase is set forth within the Texas Open Meetings Act, thereby making Section 551.125 applicable to the Association under such circumstance; and (ii) whether the Association may rely upon Sections 6.002 and 22.002 of the Texas Business Organizations Code as providing authority for Trustees to attend meetings via telephone conference call.

Sincerely,



John Davis
State Representative, District 129
Chair, House Committee on Economic and Small Business Development

cc: Clear Lake City CAI