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OPINION COMMITTEE



MICHAEL E. WELBORN
DISTRICT ATTORNEY
36th Judicial District of Texas
Aransas and San Patricio Counties

August 19, 2013

FILE # ML-47371-13
I.D. # 47371

Investigator:

John C. Edsell

Victim/Witness Coordinator:

Mona L. Orozco

RQ-1147-GA

Assistant District Attorneys:

Marcelino Rodriguez

Samuel B. Smith

Frank Errico

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

Attention Opinion Committee

RE: Whether a City Counsel can authorize the City Attorney to file an injunction to prohibit Court proceedings on a Recall election that had been duly certified by the City Secretary?

Dear Attorney General Abbott:

On April 26, 2013, I submitted a request for opinion on the above referenced matter. At the time of submission, there was a pending law suit on said issue. I have been advised that your office did not wish to issue an opinion while the law suit on the matter was pending. I am now resubmitting the request for an opinion.

Attached please find the original request for opinion and additionally, the Motion and Order for Non-suit in the pending law suit. As you can observe, the Court Dismissed the pending law suit without reaching the merits of the case.

The citizens of Sinton, San Patricio County request your opinion on this matter.

Respectfully submitted,

A handwritten signature in black ink that reads "M E Welborn".

Michael E. Welborn



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36th Judicial District of Texas
Aransas and San Patricio Counties

Investigator:
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APRIL 26, 2013.

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

Attention Opinion Committee

RE: Whether a City Counsel can authorize the City Attorney to file an injunction to prohibit Court proceedings on a Recall election that had been duly certified by the City Secretary?

Dear Attorney General Abbott:

On behalf of the citizens and two city councilmen, we request your opinion as to the legality of actions taken by the sitting Sinton City Council and Sinton City Attorney regarding a petition for recall pertaining three city council members.

Briefly, a recall petition had been duly certified in accordance with the rules of the Sinton City charter, seeking a recall election for three sitting members of the city council. After meeting in executive session with the City Attorney, the Council voted to authorize the City Attorney to file an action to seek an injunction against the proponents of the recall petition from going forward with the recall election in District Court, as is provided in the local city charter. The three council members named in the recall petition voted to authorize the City Attorney to seek injunctive relief. (A copy of the petition seeking injunctive relief is attached.) Citizens and other council members (who were not named in the petition for recall) question the propriety and possibly legality of the described action seeking injunctive relief and naming as defendants in such action four of the citizens who presented the recall petition.

Citizens and council members question whether the three sitting council members named in the recall petition and the City Attorney have put their proprietary interests ahead of the citizens of Sinton, Texas who they were elected to serve.

A copy of the written request made to this office is attached for your reference.

Respectfully submitted,

Michael E. Welborn