



**THE ATTORNEY GENERAL
OF TEXAS**

August 11, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Paul T. Curl
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Dear Mr. Curl:

Although this office previously closed the file on the applicability of the Texas Open Records Act, article 6252-17a, V.T.C.S., to the Fiesta San Antonio Commission, because of new information, we have reopened the file. This decision in OR89-242.

By letter dated July 5, 1989, Mr. Ruben Sandoval submitted to this office a copy of San Antonio Ordinance 66194. This ordinance provides in part:

Fiesta San Antonio Commission is hereby designated as the official agency of the City of San Antonio for the purpose of planning, coordinating, and providing financial support for the events and activities of Fiesta San Antonio.

San Antonio, Tex., Ordinance 66194, § 1 (Dec. 2, 1987). The ordinance, among other things, delegates certain of the city's powers to the commission:

The City of San Antonio will not lease, rent, or permit the use of City-owned facilities or public streets or other facilities where a City permit is required for any carnival, parade, or other Fiesta type event during the period of Fiesta San Antonio designated in Section 1 without the approval in writing of the Fiesta Commission at least 120 days prior to the first day of Fiesta San Antonio. This limitation applies to (but is not limited to) use of the following facilities: Convention Center Facilities, Market Square and Farmers Market, Municipal Auditorium, La Villita, and all parts of HemisFair Plaza not under lease,

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as well as the San Antonio River and adjacent areas owned by the City of San Antonio between the bridge on Lexington Avenue and Villita Street, and including the River Bend and River Extension into Convention Center. (Emphasis added.)

Id. § 2.

Our previous correspondence with you about this matter focused on section 2(1)(F) of the Open Records Act, which provides that "private" entities are subject to the act when the entities are supported by or expend public funds. You assert on behalf of the commission that no funds that support the commission or that the commission expends come from the City of San Antonio. Your previous correspondence did not, however, explain how or why the funds from the sale of tickets for admission to events on public property, funds that would otherwise belong to the City of San Antonio, should not be characterized as public funds within the meaning of section 2(1)(F). See San Antonio, Tex., Ordinance 66194, § 4(f) (Dec. 3, 1987). The ordinance at issue provides a substantial financial benefit to the Fiesta San Antonio Commission.

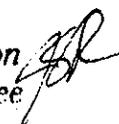
Moreover, our letters to you did not address the applicability of section 2(1)(C) of the Open Records Act to the commission. Section 2(1)(C) provides that the act's definition of "governmental body" includes:

every deliberative body having rulemaking or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city.

V.T.C.S. art. 6252-17a, § 2(1)(c). As indicated, San Antonio Ordinance 66194 designates the commission an agency of the city and delegates to the commission certain of the city's power to lease certain city property in connection with Fiesta San Antonio. Although the fact that the ordinance names the commission as "agency" does not control, the ordinance when taken as a whole makes the commission an agency of the city within the meaning of section 2(1)(C).

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In light of these considerations, it appears that the Fiesta San Antonio Commission is a "governmental body" under the Open Records Act. You have 10 days from receipt of this ruling to respond to the ruling or to provide the requested public records. This decision should be cited as OR89-242.

Yours very truly,
Open Government Section
of the Opinion Committee 

Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/bc

Ref.: ID# 6950
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