



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Claude Isbell  
Secretary of State  
Austin, Texas

Dear Sir:

Opinion No 0-7223

Re: Whether the charter of Angelina  
Beautification Foundation can  
be filed under any section of  
Article 1302, V. A. C. S.

We have received your letter of July 8, 1946, which is  
quoted as follows:

"There has been presented to this department  
for filing Articles of Incorporation of the Angelina  
Beautification Foundation, Inc.

"After reading the purpose clause set out in  
this charter, I am not thoroughly convinced that it  
comes under any of the sections set out in Article  
1302. I do believe, however, after reading the Act  
passed in 1945 amending Chapter 81 of the Revised  
Statutes, that this corporation probably could be  
filed under Section 105 of Article 1302. If you  
will read Section 3 of Senate Bill 19 as passed at  
the last session of the Legislature, you will note the  
following language: 'The fact that Foundations and  
similar organizations are now prohibited from incor-  
porating under the laws of the State of Texas for the  
combined purposes named in this Act, resulting in loss  
of much needed financial support for activities of  
importance to the citizenship and welfare of this State,  
creates an emergency, etc.' I feel like we should be  
justified in filing this charter under Section 105 of  
Article 1302 and would ask you, if in your own opinion,  
we should file same under said section.

"If you should advise us that we should not file  
this charter under said section, could same be filed  
under any other section of Article 1302?"

We note that the purpose of the corporation is to beautify the City of Lufkin as well as other communities in Angelina County by landscape improvements of homes, streets and parks. Further, by Article VI of the Charter, it is seen that the corporation has no capital stock and is not operated for profit.

A review of the various sections of Article 1302, V.A.C.S., discloses no language which literally authorizes the specific purpose of this organization. However, Section 2 thereof contains the following general and inclusive language, which, in our opinion, is sufficient to justify the filing of this charter thereunder:

"Sec. 2. The support of any benevolent, charitable, educational or missionary undertaking."

We have selected Section 2 instead of Section 105 because the former includes the term "benevolent". Although the word "benevolent" used in connection with gifts for general beneficial public purposes connotes "charity", it includes objects and purposes that are not charities and is wider than "charitable" in its legal significance. See Van Syckel v. Johnson, 70 A 657; Hegeman's Ex'rs v. Rooms, 62A 392; Order of Sisters of St. Joseph v. Town of Plover, 1 N.W. 2nd 173.

Speaking etymologically, the term "benevolent" originally implied wishing well to others. But by degrees the term has been extended to include not only feelings but actions; thus, we may speak of benevolent actions as labors for the public good. The natural beautification of any community is certainly for the benefit and appreciation of the public. It is labor directed to the public good and welfare.

The Courts of other jurisdictions as well as Texas have been liberal in construing the purpose clauses of benevolent and charitable corporations. Hildebrand on Texas Corporations, Vol. 1, § 26, p. 105; In Re Rockefeller's Estate, 165 N.Y.S. 154; Corporation of Chamber of Commerce of New York v. Bennett, 257 N.Y.S. 2; In Re Graves' Estate, 89 N.E. 672.

As the corporation proposed here is a non-profit organization with no capital stock, it is evident that no pecuniary advantage to the members is sought. It is our opinion that its primary objective - the beautification of the City of Lufkin - is benevolent in character and that you may properly file the charter under Section 2 of Article 1302, V. A. C. S.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By Jack K. Ayer  
Assistant



APPROVED AUG 9, 1946  
[Signature]  
ASSISTANT ATTORNEY GENERAL

JKA:djm