



**THE ATTORNEY GENERAL
OF TEXAS**

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April 25, 1973

Overrules M. 1096

Honorable Jim Kaster, Chairman
Intergovernmental Affairs Committee
P. O. Box 2910
Austin, Texas

Letter Advisory No. 13

Re: House Bill 1096 - in view
of M-1096, is it constitu-
tional to put two tenants
as commissioners of pub-
lic housing authorities?

Dear Representative Kaster:

Article 1269k, Vernon's Texas Civil Statutes, authorizing creation of housing authorities, provides in Section 6:

"No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office."

Attorney General Opinion No. M-1096 (1972) construed this language to prohibit a tenant of a housing authority from serving as a commissioner thereof, apparently on the basis that, if a tenant did not have such a conflict of interests as to render him ineligible under common law, certainly the language of Section 6 would disqualify him.

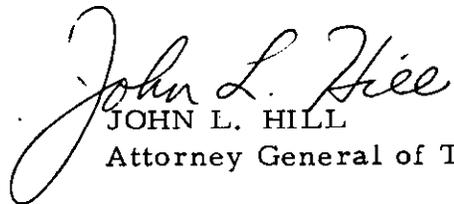
House Bill 1096 would add to Article 1269k an additional Section 5a re-
quiring the appointment of two additional commissioners who "must be ten-

ants of a public housing facility." You have asked whether House Bill 1096 is constitutional. We find no provision in the Constitution of Texas which would render it invalid.

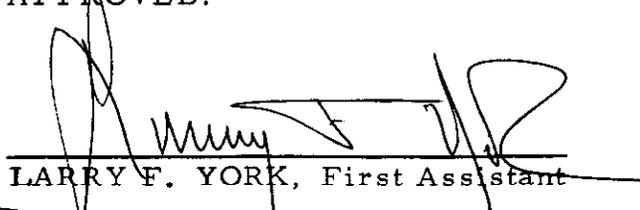
We do not agree that all tenants have a conflict of interests on all questions which might come before a board of directors of a housing authority. Undoubtedly, there would be issues upon which they would be faced with a conflict, just as other members might be faced with conflicts on other matters. The resolution of that problem is for all members to abstain from voting on those issues in which they have a direct interest. We do not construe Section 6 of Article 1269k, V. T. C. S., to disqualify those interested in housing projects as tenants, but, if that is its proper interpretation, any conflict between that section and the newly proposed Section 5a would be resolved by giving weight to Section 5a as the last expression of the Legislature.

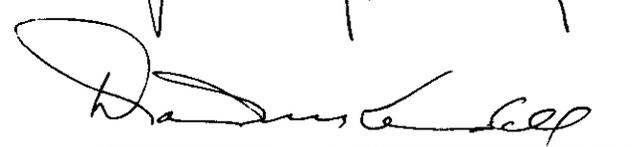
The following authorities are pertinent to the questions discussed: Meyers v. Walker, 276 S. W. 305 (Tex. Civ. App., 1925, no writ); City of Edinburg v. Ellis, 59 S. W. 2d 99 (Tex. Comm. App., 1933); Allied Finance Co. of Bay City v. Falkner, 397 S. W. 2d 846 (Tex. 1965); State v. Easley, 404 S. W. 2d 296 (Tex. 1966); Attorney General Opinion O-2980 (1941).

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


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Opinion Committee