



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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October 1, 1973

The Honorable Robert Buntyn
Castro County Attorney
Dimmitt, Texas 79027

Opinion No. H-114

Re: Whether or not a housing authority created under the provisions of § 23a of Article 1269k, V. T. C. S., could operate a project within the city limits of the City of Dimmitt, Texas

Dear Mr. Buntyn:

Your request for our opinion brings into focus an apparent conflict between §§ 23a and 23c of Article 1269k, Vernon's Texas Civil Statutes, the Housing Authorities Law. Counties are authorized by § 23a to create county housing authorities. The concluding sentence of that section is:

"The area of operation of a housing authority created for a county shall include all of the county in which it is created except that portion of the county which lies within the territorial boundaries of any city."

Section 23c of the statute, as originally enacted, authorized the operation of regional housing authorities comprised of two or more counties. It still does, but, as amended in 1971 (Acts 1971, 62nd Leg., Ch. 976, p. 2948), it was made to read, in part:

"The area of operation of a regional housing authority shall include all of the counties for which such regional housing authority is created and established except that portion of the counties which lies within the territorial boundaries of any city. Provided that a county or regional housing authority shall not undertake any housing project

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or projects within the boundaries of any city unless a resolution shall have been adopted by the governing body of such city (and also by any housing authority which shall have been theretofore established and authorized to exercise its powers in such city) declaring that there is a need for the county or regional housing authority to exercise its powers within such city. "

The amending act is entitled in part: "An Act Relating to the Area of Operation of a County or Regional Housing Authority. . . ."

In our opinion, § 23a of Article 1269k is not inconsistent with the provisions of the amended § 23c. Normally a county housing authority may not operate within the limits of a city. However, a county housing authority may undertake a housing project within the boundaries of a city if the governing bodies of the city and of any housing authority theretofore established within the city shall have adopted a resolution declaring that there is a need for the county housing authority to exercise its powers within the city.

Since your letter refers to the existence of a housing project within the City of Dimmitt at the present time, we assume that there is an existing housing authority within such city. Therefore, for a county housing authority to take over the existing project would require a resolution of the governing body of the City of Dimmitt and also of the Dimmitt Housing Authority declaring the need of a Castro County Housing Authority there to exercise its powers within the city.

Our construction of the statute is reinforced by the adoption in 1971 of the Interlocal Cooperation Act [Article 4413 (32c), V. T. C. S.], the purpose of which is "to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental contracting authority at the local level, including contracts between counties and cities. . . ."

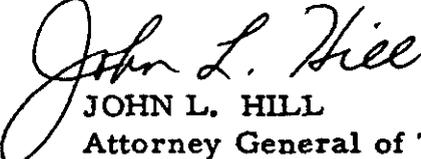
SUMMARY

Under § 23c of Article 1269k, Vernon's Texas Civil Statutes, a county housing authority is authorized

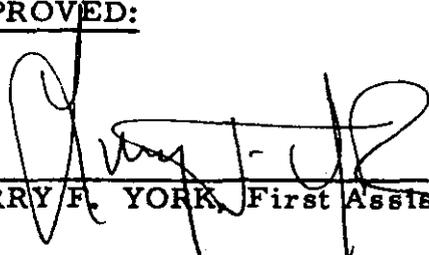
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to exercise its authority within the boundaries of a city provided both the city government, as well as the governing body of any housing authority existing within the city, adopt resolutions declaring a need for the county housing authority to so exercise its powers within the city.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee