



Senate
Economic Development Committee

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P.O. Box 12068
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Austin, Texas 78711

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Opinion Committee

The Honorable Dan C. Morales
Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Dear General Morales:

As Chairman of the Senate Economic Development Committee I am seeking an opinion concerning the delegation of authority by an economic development corporation incorporated under the Development Corporation Act of 1979, as amended (Tex. Rev. Civ. Stat. Ann. art. 5190.6 et seq.) to a non-profit corporation incorporated under the Texas Non-Profit Corporation Act (Tex. Rev. Civ. Stat. Ann. art. 1396-1.01 et seq.). This request is very germane to the issues of economic development and state laws implementing such programs.

Facts

- 1) The Development Corporation of Abilene (DCOA), under the authority of the Development Corporation Act (Sec. 4A(c)), administers the proceeds of a one-half cent sales tax collected in the city of Abilene.
- 2) The DCOA contracts with several Abilene non-profit corporations, under the authority of the Development Corporation Act (Sec. 4A(a)), in order to accomplish its business.
- 3) By contract with the Abilene Economic Development Corporation (AEDC), which is incorporated under the Non-Profit Corporation Act, the DCOA delegated its authority to administer the current loan finance program to the AEDC. The finance program is funded by the sales tax and Community Development Block Grants.
- 4) The AEDC has its own Loan Review Committee which investigates loan applicants. The AEDC has not allowed public access to Loan Review Committee meetings or Executive Sessions called to consider an applicant's finances.
- 5) All development corporations incorporated under the Development Corporation Act are bound by the Texas Open Meetings Act (Development Corporation Act, Sec. 11(b)).

6) The AEDC is obligated to abide by the Open Meetings Act only to the extent that its bylaws require it to do so. While the AEDC bylaws generally dictate compliance with the Open Meetings Act, AEDC Loan Review Committee meetings and Executive Sessions to discuss client financial information are specifically exempted from any compliance with any provision of the Open Meetings Act.

Issue

Can a development corporation, duly incorporated under the Development Corporation Act and therefore bound to abide by the Open Meetings Act, delegate authority over business arising exclusively from the Development Corporation Act to a non-profit corporation that is not a governing body as defined by the Open Meetings Act and thereby escape public inspection of its business?

I sincerely hope you can provide an opinion which will give guidance to the many development corporations which are incorporated in Texas and controlling and distributing public funds.

Sincerely,



Temple Dickson
Chairman

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