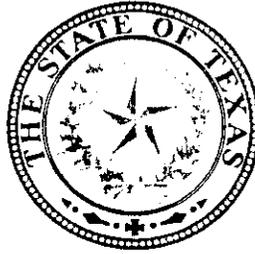


Marvin J. Titzman
Executive Director



JD # 15321
MBJ

Board Members
M. F. (Red) Connor, Chairman
Emmett Allen, Vice-Chairman
F. Pete Adams
Phillip A. Aronoff, ex officio
Bob Caskey
Robert A. Lansford
Pat Legan
Trevor David Rees-Jones
Mrs. Russell (Molly) Pryor
Herman H. Wommack, Jr.

TEXAS SURPLUS PROPERTY AGENCY

ADMINISTRATIVE OFFICE
P. O. Box 8120
SAN ANTONIO, TEXAS 78208-0120
2103 ACKERMAN ROAD — TELEPHONE (512) 661-2381
FAX (512) 662-8316

RQ-347

March 9, 1992

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MAR 17 92

Opinion Committee

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

Re: Opinion Request

Dear Mr. Attorney General:

The Texas Surplus Property Agency is a state agency created by the Texas Legislature, Article 6252.6b, V.A.C.S. The Agency's primary function is to acquire, warehouse and distribute surplus federal personal property to entities and institutions which qualify under the Federal Property and Administrative Services Act of 1949, (40 U.S.C. 484), as amended. In accordance with the Federal Act, the U.S. General Services Administration has promulgated rules in the Code of Federal Regulations, Title 41, Subtitle C, Chapter 101-Federal Property Management Regulations (FPMR) which provide the necessary guidelines for the administration of the federal property Donation Program.

Pursuant to these federal regulations, this agency is responsible for the determination of eligibility of various entities within the State of Texas to receive federal property and otherwise participate in this grant-in-aid program. With respect to the eligibility of tax exempt nonprofit organizations, this agency interprets the FPMR to require that, in addition to tax exemption under Section 501 of the IRS Code, nonprofit organizations are required to have health or educational programs which are **Approved, Accredited or Licensed** by a recognized authority.

ACCOMPANIED BY ENCLOSURES -

FILED SEPARATELY
Equal Opportunity Employer

March 9, 1992
Page 2

This agency has received an Application For Eligibility from Everyone Has Rights Peacemakers Inc. as an educational organization, however the corporation has been unable to provide sufficient evidence, which is acceptable to this agency, which shows that the educational services provided are **approved, accredited, or licensed** by a recognized authority within the State. The Texas Education Agency has provided a letter which states that the corporation is exempt under Section 32.12 (A)(2) of the Texas Education Code. The applicant corporation contends that they qualify as an eligible entity as described in the Code of Federal Regulations, and bases their position on the IRS tax exemption ruling, Articles of Incorporation which have been accepted by the Texas Secretary of State and the Texas Education Agency ruling. This agency's position, which has been supported by the U.S. General Services Administration, continues to be that eligibility to participate in this federal program is limited to those organizations which have valid educational programs that provide recognized educational services and are **Approved, Accredited or Licensed** in accordance with the FPMR.

It is respectfully requested that your office review the attached entire case file in this matter and issue a formal opinion to answer the following questions:

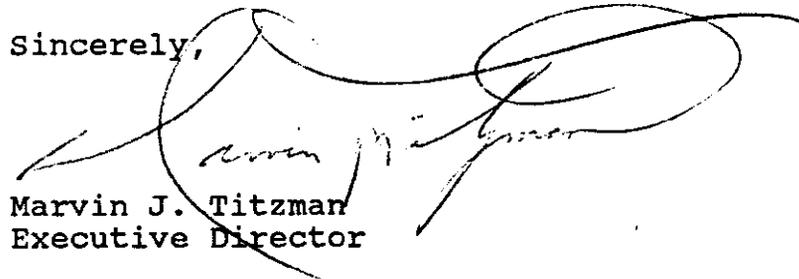
- 1.) Is a tax exempt (IRS Code Section 501) nonprofit corporation which is exempt from the Texas Proprietary School Act and Section 32.12 (A)(2), Texas Educational Code recognized by the State of Texas as a nonprofit "school" within the meaning of State Statutes; and
- 2.) is an "exemption" from the requirement of the Texas Proprietary School Act and Section 32.12 (A)(2) Texas Education Code considered to meet the federal requirements for **Approval, Accreditation or Licensing** stipulated in the Code of Federal Regulations, 41 CFR, chapter 101, Section 44.207 (FPMR); and
- 3.) based on the information and documentation submitted herewith, does the Everyone Has Rights Peacemakers Inc. corporation meet the minimum requirements for eligibility as an educational institution to receive federal property through the Texas Surplus Property Agency.

March 9, 1992

Page 3

If you have any questions concerning this request or any of the information presented in this case file, please feel free to contact me or Ms. Jenny Murray, Administrative Assistant of this office at AC512/661-2381. This agency looks forward to your prompt response to these important questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Marvin J. Titzman", is written over a circular stamp. The signature is fluid and cursive.

Marvin J. Titzman
Executive Director

MJT:ld

cc: Ms. Molly Shannon

Enclosures:

- 1.) Application for Eligibility with related correspondence.
- 2.) Code of Federal Regulations, Part 101-44.
- 3.) GSA Eligibility Handbook-1991.
- 4.) TSPA letter (January 22, 1992) response per Board directive.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Marvin J. Titzman
Executive Director



ID# 15513
mBJ

Board Members
M. F. (Red) Connor, Chairman
Emmett Allen, Vice-Chairman
F. Pete Adams
Phillip A. Aronoff, ex officio
Bob Caskey
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TEXAS SURPLUS PROPERTY AGENCY

ADMINISTRATIVE OFFICE
P. O. Box 8120
SAN ANTONIO, TEXAS 78208-0120
2103 ACKERMAN ROAD — TELEPHONE (512) 661-2381
FAX (512) 662-8316
March 30, 1992

Re: RD-34

RECEIVED
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Ms. Madeleine B. Johnson
Chair, Opinion Committee
Office of the Attorney General
P.O. Box 12548
Austin, Tx. 78711-2548

Opinion Committee

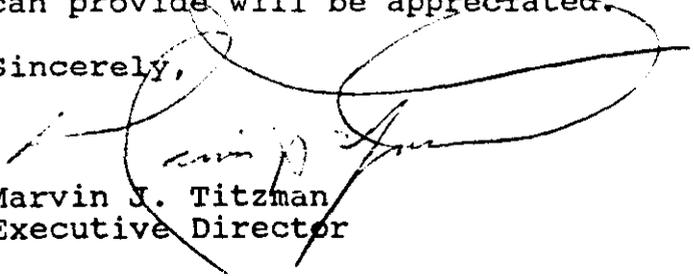
Re: ID# 15321

Dear Ms. Johnson:

Thank you for your letter of March 25, 1992 concerning the referenced communication to your office requesting assistance in matters recently encountered by this agency.

I understand your position relative to interpreting and applying federal laws and regulations. It is respectfully requested, however, that your office provide a formal opinion responding to my first question in the referenced request. Any assistance you can provide will be appreciated.

Sincerely,


Marvin J. Titzman
Executive Director

MJT:ld

cc: TSPA Board