



IO # 16104
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RD-404

May 18, 1992

RECEIVED

MAY 21 1992

Office of the
Attorney General

The Honorable Dan Morales
Attorney General
State of Texas
Price Daniel Sr. Bldg.

Re: State participation in protesting zoning changes and exemption of federal lands.

Dear General Morales: *Dan*

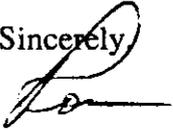
I would like to request an opinion regarding certain provisions in the Local Government Code for protesting a local zoning change: specifically, whether or not the State can participate in protesting a zoning change; and whether or not land owned by the RTC is exempt from the conditions of protest. Section 211.006(d), Local Government Code states:

If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either: (1) the area of the lots or land covered by the proposed change; or (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

With regard to condition (2), if a significant portion of the adjoining land is bordered by a highway, and therefore state-owned, is that area included when computing the percentage of land area under Subsection (d)? If yes, then is the Highway Department authorized to participate in the zoning change protest? Who has the authority to sign the protest?

With regard to the exemption of RTC property, Section 211.013 exempts "land under the control, administration, or jurisdiction of a state or federal agency" from the provisions of this subchapter. Does this mean that land owned by the RTC is exempt from the provisions of this subchapter, including the requirements of Section 211.006 (d)?

I would appreciate your attention to this matter. As I would imagine is the case with most of the opinion requests you receive, time is of the essence. Any haste that may be afforded this request would be greatly appreciated. Please do not hesitate to contact me or my staff, Karen Gibson, if you require further information.

Sincerely,


Ron Lewis, Chairman
House Natural Resources Committee

RL/kg