



The Advisory Commission on State Emergency Communications

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Austin, Texas 78746-6437



RG 707

Mary A. Boyd, Executive Director

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May 19, 1994

FILE # AV-26492-94 MAY 19 94 RQ-00707-DM
Opinion Committee

I.D.# 26492 27068

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

RE: Attorney General Opinion Request or Request for Reconsideration Regarding the Potential Liability of an Appraisal District that Participates in Maintaining an Addressing System for Purposes of Automatic Location Identification

Dear General Morales:

The Advisory Commission on State Emergency Communications (ACSEC) administers implementation of statewide 9-1-1 service, develops minimum performance standards to be followed in developing regional plans, including requirements that regional plans provide for automatic number and automatic location identification, and allocates money to prepare and operate regional plans. ACSEC requests a legal opinion regarding the ability of appraisal districts to develop and maintain street address information for counties and the potential liability of an appraisal district that participates in maintaining an addressing system for purposes of automatic location identification.

On January 31, 1994, the Opinion Committee issued Letter Opinion (LO) No. 94-016, which did not reach the potential liability question because it concluded that "appraisal districts are not authorized to assign official addresses." (emphasis added). The failure of LO No. 94-016 to reach the potential liability question is of great concern to ACSEC. The LO creates ambiguity as to the current state of the law since it was issued four months after the effective date of a statutory change that was specifically intended to resolve the potential liability question.

Appraisal District Immunity from Liability

Section 771.001(7) of the Health and Safety Code, which defines "public agency" was amended effective September 1, 1993 to include an appraisal district that participates in the provision of 9-1-1 emergency. This change is significant as to the potential liability question because section 771.053(b) of that code provides that "[a] member of the advisory commission or of the governing body of a public agency is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission

causing the claim, damage, or loss violates a statute or ordinance applicable to the action." The Bill Analysis for the recent statutory change, which is attached to this letter as Exhibit A, reflects that the purpose of the legislation was to specifically relieve appraisal districts from potential liability in the same manner as other public agencies providing 9-1-1 support.

Appraisal District Participation in Developing and Maintaining an Addressing System

ACSEC agrees LO No. 94-016 is clearly correct that Article 6702-1, section 2.011, which in part has to do with "naming roads and assigning street numbers" in unincorporated areas, reserves that "official" addressing authority to counties. Section 2.011 in subsection (b) authorizes the county commissioners court by order to adopt "uniform standards" for naming roads and assigning address numbers to property in unincorporated areas, and in subsection (c) authorizes the county commissioners court by order to adopt names for roads and assign address numbers to such property when there is no established address system.

Counties recognize and are performing the above functions, however, counties are reliant upon appraisal districts for the mechanics of addressing that require current maps, plats, and administrative support in developing address numbering schemes. While counties and appraisal districts generally share information loosely together regarding the development of county maps and the identification of new locations, to ACSEC's knowledge no appraisal district is "officially" assigning addresses in contravention of county authority. Once an address has been "officially" assigned pursuant to section 2.011, it becomes the "official" address, which may be used as part of an addressing system maintained by an appraisal district for automatic location identification purposes in 9-1-1 databases or for any other need of official addresses, such as the postal system. As noted by the Opinion Committee in the footnote in LO No. 94-016, an appraisal district's functions encompass compiling location information to identify property for its own purposes. An appraisal district's participation in maintaining an addressing system for 9-1-1 involves providing location information, not unilaterally usurping the "official" authority of counties to name roads and assign addresses. In hindsight, ACSEC's October 19, 1992 brief to the Opinion Committee should have clarified that an appraisal district's participation in the provision of 9-1-1 service does not require the appraisal district to "officially" assign addresses under its own independent authority. ACSEC is concerned that LO No. 94-016 can be read to prohibit appraisal districts from performing the 9-1-1 functions from which they were expressly granted immunity.

Importance of Issuing a New Letter Opinion

Section 771.052 of the Health and Safety Code requires each public agency to

cooperate with the ACSEC to the fullest extent possible. The cooperation by appraisal districts in maintaining addressing systems for purposes of automatic location identification has been a very essential part of implementing quality statewide 9-1-1 service in Texas. The Legislature specifically changed the definition of "public agency" to ensure that an appraisal district, which cooperates by maintaining an addressing system, has the same immunity from liability as other public agencies participating in the provision of statewide 9-1-1. The Comptroller, who made the original opinion request that led to LO No. 94-016, supports ACSEC's request for a new opinion or reconsideration of LO No. 94-016 as if this request were his own. See, Exhibit B. Under these circumstances and in view of the possible chilling effect that LO No. 94-016 could have on continued cooperation by appraisal districts in maintaining addressing information, ACSEC requests that a letter opinion addressing the question of ability for appraisal districts to develop address information and the potential liability of appraisal districts under the new law be issued as quickly as possible.

Sincerely,



Mary A. Boyd
Executive Director

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Comptroller of Public Accounts
Austin, Texas 78774

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Simon Shaw / Gay
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Opinion Committee

May 16, 1994

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The Honorable Daniel C. Morales
Attorney General
State of Texas
Price Daniel Building, 8th Floor
209 West 14th Street
Austin, Texas 78701-1614

FILE # *M1-26620-94*
I.D.# *26620*

Dear General Morales:

This letter is to express my agreement with the Advisory Commission on State Emergency Communication's request for reconsideration of Letter Opinion 94-016. I requested the opinion (Request Number 16536), which concerned an appraisal district's addressing authority for purposes of providing emergency 9-1-1 services and their potential liability for performing that function.

In response you issued Letter Opinion Number 94-016. The opinion concluded that the commissioners court, not the appraisal district, has official addressing authority. This opinion did not discuss appraisal districts' authority to provide information to commissioners courts for use in addressing, nor did it discuss an appraisal district's potential liability for doing so. These issues are important to both appraisal districts and 9-1-1 emergency services.

In her recent letter to you, Ms. Mary Boyd, Executive Director, Advisory Commission on State Emergency Communications, thoroughly discusses these questions and the need for reconsideration of the letter opinion. If you have any questions about this matter, please call Ms. Larrilyn Russell, Legal Counsel, Property Tax Division, at 305-9811.

Sincerely,

JOHN SHARP
Comptroller of Public Accounts

cc: Larrilyn Russell
Mary Boyd

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MAY 20 1994

DAN MORALES