

County of Nueces

RQ-843



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July 28, 1995

The Honorable Dan Morales
Attorney General for the State of Texas
P.O. Box 12548
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SJS

FILE # ML-35137-95

ATTN: Opinion Committee

RE: Request for Opinion

RECEIVED

I.D. # 35137

AUG 07 1995

Dear General Morales:

Opinion Committee

In behalf of the Corpus Christi Regional Transit Authority, I respectfully request your assistance and opinion with respect to a question which may be fairly stated as follows:

"Does The Corpus Christi Regional Transit Authority (RTA) have the legal authority to provide financial assistance to an organization which specializes in emergency medical transportation by helicopter?"

The RTA was established pursuant to V.T.C.A., Article 1118x, (the "Act"). The Act contains certain legislative findings, enumerated powers, and definitions concerning RTA's authority to provide transportation services.

Specifically at issue here is Section 6(w) of the Act, which provides:

"An authority in which the principal city has a population of less than 300,000, according to the most recent federal census, may operate emergency medical services."

Generally, Section 1 of the Act provides legislative findings which essentially proclaim the necessity for public transportation and the creation of coordinated mass public transportation services through RTA's. The crux of our question rests with the apparently

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limiting definition of "mass transit" created in Section 2 of the Act which provides:

"Mass transit" means transportation of passengers and hand carried baggage of said passengers by means of motorbus, trolley coach, street railway, rail, suspended overhead rail, elevated railways, subways, or any other surface, overhead or underground transportation (except taxicabs), or any combination of the foregoing and, for an authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000 as determined by the most recent federal decennial census, includes the establishment and operation of public parking facilities."

The foregoing definition appears to exclude air transit methods, or for our specific purposes, helicopters.

Section 6 of the Act enumerates the powers granted to the RTA under the Act. The RTA is authorized to carry out the purposes of the Act, and Section 6 appears to grant to the RTA all such powers necessary to operate and coordinate mass public transportation. The sticking point is whether that grant of authority exists with respect to systems or transportation methods which are outside the definition of "mass transit."

The Code Construction Act, Section 311.023, in pertinent part, authorizes a court, whether or not a statute is considered ambiguous on its face, to consider "(1) [the] object sought to be obtained;" and "(4) common law or former statutory provisions, including laws on the same or similar subjects."

With respect to the authorization of Section 6 of the Act for the RTA to "operate emergency medical services," it seems appropriate to look to other statutes on same or similar subjects to resolve any ambiguity in the Act. Health and Safety Code, Chapter 773 establishes guidelines for provision of emergency medical services in the Emergency Medical Services Act (the "EMSA"). The EMSA states its purpose:

"...to provide for the prompt and efficient transportation of sick and injured patients, after necessary stabilization, and to encourage public access to that transportation in each area of the state." **Health and Safety Code, Section 773.002.**

The EMSA provides definitions for terms pertinent to our consideration of Section 6(w) of the Act. EMSA, Section 773.003 contains, in pertinent part, the following definitions:

"(8) 'Emergency medical services' means services used to respond to an individual's perceived need for immediate medical care and to prevent death or aggravation of physiological illness or injury."

"(12) 'Emergency medical service vehicle' means:
(A) a basic life-support emergency medical services vehicle;
(B) an advanced life-support emergency medical services vehicle;
(C) a mobile intensive-care unit; or
(D) a specialized emergency medical services vehicle."

Further clarification of the definition of "emergency medical service vehicle" is found in Sections 773.042 through 773.045. Pertinent to our question is Section 773.045, the definition of a "specialized emergency medical services vehicle, " as follows:

"A vehicle, including a **helicopter**, boat, fixed wing aircraft or ground vehicle, qualifies as a specialized emergency medical services vehicle if it:

- (1) is designed for transporting the sick or injured by air, water, or ground transportation;
- (2) is not a basic or advanced life-support emergency medical services vehicle or a mobile intensive-care unit; and
- (3) has sufficient equipment and supplies to provide for the specialized needs of the patient transported."

Therefore, it seems that the authorization from the Act for the RTA to "operate emergency medical services" contemplates compliance by the RTA with the provisions of the EMSA. The EMSA makes clear that the use of helicopters is permissible as an emergency medical services vehicle so long as the use and the vehicle are otherwise in compliance with the EMSA provisions. The purposes of both the Act and the EMSA are achieved by this analysis.

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It is the opinion of this office that the RTA is authorized to provide financial assistance to an organization which specializes in emergency medical services transportation by helicopter to the extent that service promotes the purposes of the Act and the EMSA. There are licensing and certification provisions with which the helicopter service must comply, of course, but in the terms of the question raised, helicopter transport is an approved method of delivery of emergency medical services in both the Act and the EMSA.

We appreciate your consideration of these matters, and look forward to your opinion. Please advise if additional information is required. We are at your service.

Yours truly,

A handwritten signature in black ink, appearing to read 'Carl E. Lewis', with a horizontal line extending to the right.

Carl E. Lewis
Nueces County Attorney