



The State of Texas House of Representatives

EDMUND KUEMPEL DISTRICT 45 • COMAL & GUADALUPE COUNTIES

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I.D. # ML-40222-38 APR 20 1998
40222 Opinion Committee
April 3, 1998

APR 13 1998

GOVERNMENTAL INQUIRY
UNIT

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

FILE # OR-116279-98
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OPEN RECORDS DIVISION

Dear General Morales.

RO 1127

The Daughters of the Republic of Texas is in a unique position as the guardian and conservator of both the Alamo and the French Legation for the people of the state of Texas. While it is a private organization, it has the responsibility of maintaining property of the State of Texas. The DRT is currently complying with the letter of the Open Meetings Act, however, questions have arisen over whether they are legally obliged to comply with this law. As a private organization, much of its business is private and not open to the public. The Daughters of the Republic of Texas is requesting a legal opinion clarifying whether it is subject to Open Meetings Act notice and meeting requirements.

BACKGROUND

The Daughters of the Republic of Texas is a private, non-profit organization established under the Non-Profit Corporation Act. Founded shortly after the Texas Revolution by descendants of those who fought for Texas' freedom, the DRT was chartered to preserve Texas history, and continues to do so today. Membership is based on lineage and its functions are largely private.

In 1905 a handwritten act by the legislature authorized the governor of Texas to purchase the Alamo from the Daughters of the Republic of Texas and granted the DRT custodianship rights over the Alamo for the benefit of the people of Texas without charge to the State. This legislation was upheld in 1913 by the Supreme Court of Texas in Conley v. D.R.T. 156 S.W. 197 (Tex. 1913).

The French Legation was built just after Texas became a Republic by the French government. In 1949 it was purchased by the State of Texas and was put into the custody of the Daughters of the Republic of Texas. The Daughters restored the Legation and opened it as a museum in 1956.

In 1955 subsequent legislation created a trust relationship between the State of Texas and the DRT. This allowed the Daughters to collect admission fees to state-owned property for the maintenance and operation of these sites without cost to the state. This Act was amended in 1993 to require that all money collected and held in trust be spent on the property at which the money was received.

COMMITTEES: ENVIRONMENTAL REGULATION
CHAIRMAN — STATE RECREATIONAL RESOURCES

OPEN MEETINGS ACT REQUIREMENTS

In previous Attorney General Opinions H-438 (1974) and JM-331 (1985), which were provided to the DRT, the determination is based on whether the body or organization supervised or ultimately controlled public business or public policy. For the DRT, its custodianship of public property is established by the legislature. The question here is whether the DRT functions as a governmental body according to definition. It was neither created by the legislative or executive branch, nor are its members elected or appointed by either branch.

Frequently opening and closing meetings so that other business can be discussed is often burdensome and unnecessary. Notice requirements preclude the DRT from conducting some business in a timely manner.

The Daughters of the Republic of Texas recognizes its responsibility to comply with the Open Records Act and continues to make available to the public any documents with regard to the care of the Alamo and the French Legation.

LEGAL QUESTIONS

1. Does a relationship between the state and the DRT, and the custodianship of public property, make the group a governmental body by definition?
2. Is the Daughters of the Republic of Texas obliged to comply with the Open Meetings Act as a private, non-profit organization?

Thank you for your consideration in addressing these legal issues. If I can provide further information for you at any time, please do not hesitate to call on me.

Sincerely,



Edmund Kuempel