

Senate Infrastructure Development & Security Committee

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MAY 10 2004

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RQ 0221-6A

May 4, 2004

FILE # ML-43687-04
I.D. # 43687

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

Dear General Abbott:

I respectfully request your opinion concerning an expenditure of section 4B sales tax proceeds pursuant to the Development Corporation Act of 1979. TEX. REV. CIV. STAT. ANN. ART. 5190.6 § 4B (VERNON SUPP. 2004).

On May 3, 1997, the eligible voters of Gun Barrel City approved the Section 4B sales tax. The ballot proposition which the voters approved authorized the use of section 4B sales tax proceeds for several different categories of projects. The attached ballot proposition provided as follows:

The adoption of a Section 4B sales and use tax at the rate of one-half of one percent to undertake projects as described in Section 4B of Article 5190.6, including but not limited to projects for the promotion of professional and amateur athletics and sports including stadiums, ball parks, auditoriums, projects related to entertainment, convention, tourist, and exhibition facilities, amphitheaters, concert halls, and public parks, park facilities and events, open space improvements, learning centers, municipal buildings, museums and related stores, restaurants, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, recycling facilities and projects to promote new or expanded business enterprises...and any other project that the board determines will promote new or expanded business enterprises, and the maintenance and operations expenses for any of the above described projects.

It is my understanding the Development Corporation Act of 1979 does not contain



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specified section 4B sales tax ballot wording. Consequently, cities may frame the ballot proposition differently. Nonetheless, the section 4B economic development corporations, with City Council approval, may only make expenditures authorized by the Development Corporation Act of 1979 and which the voters have approved.

It is also my understanding when the Gun Barrel City Economic Development Board submitted the language of the proposition to the Attorney General's office for an opinion in JC-0494, the ballot language was submitted incorrectly. It stated the 4B tax could only be used for new and expanded business development, when in actuality the special election ballot voted on by the citizens of Gun Barrel City included a much broader spectrum of eligible projects.

I request your opinion on the following question: Based upon the ballot language approved by the voters of Gun Barrel City, may the Gun Barrel City EDC, a section 4B corporation, fund the construction of a youth football field?

Thank you for your consideration. Enclosed you will find a certified copy of the original ballot language that was voted on by the citizens of Gun Barrel City. Please do not hesitate to contact me for additional information.

Sincerely yours,



Todd Staples

TS/JM/jm

Enclosure

No. 0001
SPECIAL ELECTION
(ELECCION ESPECIAL)

CITY OF GUN BARREL CITY, TEXAS
(CIUDAD DE GUN BARREL CITY, TEXAS)

MAY 3, 1987 (3 de mayo de 1987)

OFFICIAL BALLOT
(BOLETA OFICIAL)

INSTRUCTION NOTE: (NOTA DE INSTRUCCION)

Vote either "for" or "against" the following proposition. Place an "X" in the square beside the statement indicating the way you wish to vote. (Vote a favor de o en contra de las proposiciones siguientes. Marque con una "X" el cuadro a la izquierda de la frase que indica la manera en que quiere usted votar.)

PROPOSITION
(PROPOSICION)

The adoption of a Section 4B sales and use tax at the rate of one-half of one percent to undertake projects as described in Section 4B of Article 5190.6, including but not limited to projects for the promotion of professional and amateur athletics and sports, including stadiums, ball parks, auditoriums, projects related to entertainment, convention, tourist, and exhibition facilities, amphitheatres, concert halls, and public parks, park facilities and events, open space improvements, learning centers, municipal buildings, museums and related stores, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, recycling facilities and projects to promote new or expanded business enterprises including public safety facilities, streets and roads, drainage, and related improvements, demolition of existing structures, and general improvements that municipality owned, as well as any other improvements or facilities that are related to any of the above projects and any other project that the board determines will promote new or expanded business enterprises, and the maintenance and operations expenses for any of the above described projects. (La adopcion de un Impuesto sobre ventas y usos, Seccion 4B, a razon de la mita del uno por ciento, para emprender proyectos tales como los descritos en Seccion 4B del Articulo 5190.6, incluyendo pero no limitado a proyectos para la promocion de atletismo y deportes al nivel profesional y aficionado incluyendo estadios, parques para pelota, auditorios, proyectos relacionados con entretenimiento, facilidades para convenciones, turismo y exhibiciones, anfiteatros, salones para conciertos, y parques publicos, facilidades para parques y eventos, mejoras al espacio abierto, centros de aprendizaje, edificios municipales, museos y tiendas relacionadas, restaurantes, concesiones, y facilidades para el estacionamiento de autos, facilidades de transporte relacionadas con el area, y caminos relacionados, calles, facilidades para agua potable y aguas negras, facilidades para el esparcimiento, proyectos para promover empresas comerciales nuevas o ensanchadas, incluyendo facilidades para la seguridad publica, calles y caminos, drenaje, y mejoras relacionadas, demolicion de estructuras existentes, y mejoras generales que pertenecen a la municipalidad, asi como cualesquier otras mejoras o facilidades relacionadas con los proyectos mencionados arriba, y cualesquier otros proyectos que la junta crea conveniente para promover empresas comerciales nuevas o ensanchadas, y los gastos de mantenimiento y operaciones para cualesquiera de los proyectos descritos arriba).

FOR (A FAVOR DE)

AGAINST (EN CONTRA DE)

Certified true copy of original ballot language voted on by City of Gun Barrel City.

