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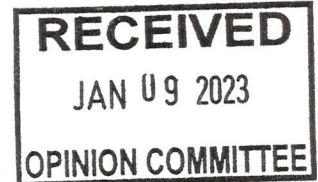
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January 4, 2023

Via CMRRR No.: 7020 3160 0001 2098 4230

Attorney General Ken Paxton
Open Records Division
P. O. Box 12548
Austin, Texas 78711-2548

Re: REQUEST FOR AN ATTORNEY GENERAL OPINION
Regarding term limit provisions of the
City of Eagle Pass, Texas



Greetings:

As the District Attorney for the 293rd Judicial District, I am hereby requesting a formal opinion from the Office of the Attorney General on the following two issues:

1. Are council places considered separate offices for term limit considerations?
2. Is the mayor pro-tem position considered a separate office from a general councilperson?

These questions arise from the interpretation of the City Charter in light of the opinion given in *In re Sifuentes*, No. 04-21-00041-CV, 2021 WL 640249, at *2 (Tex. App. Feb. 19, 2021).

I.

Factual Background

On May 9, 2015, councilwoman Yolanda Ramon was elected to the City Council of Eagle Pass as a council member, Place seat 3, for a term of four years. On May 4, 2019, Yolanda Ramon was re-elected to a second four-year term. In both years she served as mayor pro-tem. Yolanda Ramon is seeking to run for election for City Council Of Eagle Pass for Place seat 1 and not for Place seat 3.

II. Discussion of Questions Presented

The Eagle Pass City Code of Ordinances, section 3-1(b) states as follows:

Election and term. The City Council shall be elected from the city at large for a term of four (4) years. At the general election of May 2011, Council Members for Places 1 and 3, shall run for a term of three (3) years. In the general election of May 2012, the Mayor and Council Members for Places 2 and 4, shall run for a term of four (4) years. Thereafter, elections shall be held every two (2) years and each Council Member shall be elected for a term of four years. No person shall be elected for more than two (2) consecutive four-year terms.

Case law states that we must strictly construe the term-limits provision in the City's charter against ineligibility. *In re Sifuentes*, No. 04-21-00041-CV, 2021 WL 640249 (Tex. App. Feb. 19, 2021). Under this guidance, there is nothing in the charter that delineates if this is for all positions or per Place. Further, there is nothing in the Texas Constitution or Local Government Code delineating or limiting terms for city officials. Therefore, we ask whether, under the Charter, an individual could run for a different Place seat and still be eligible.

Next, if strictly construed to refer to the person regardless of Place, the Fourth Court of Appeals opinion in *In re Sifuentes* adds a layer of significant interest in this situation.

In the *Sifuentes* case, Mayor Sifuentes was seeking to run for Mayor after two terms as a city councilman and a fifteen-month term as mayor. The City gave the opinion that he could not run as he had already run for two four-year terms. The court stated that “[u]nlike the language found in other charters' term-limit provisions, the plain language of the term-limits provision in the City's charter does not clarify whether a candidate is prohibited from seeking consecutive election to a four-year term as either a council member or mayor.” The Court in *Sifuentes* held that the term-limits provision is susceptible to varied interpretations and because the seat of mayor was a distinct and separate seat from a council member on the City Council, he was eligible to file for election to a four-year term as the City's mayor.

Here, the term-limits provision establishes four-year terms for each council member, but like the *Sifuentes* case, distinctly identifies differences between the offices of mayor pro-tem and a general council member. *See* EAGLE PASS, TEX., CITY CHARTER, art. III, § 3-1(b). Other provisions of the City Charter and Code of Ordinances reinforce the distinction between the city's mayor pro-tem and each council member. *See, e.g.*, EAGLE PASS, TEX., CODE OF ORDINANCES, § 2-5 (authorizing the mayor pro-tem to sign ordinances); EAGLE PASS, TEX., CODE OF ORDINANCES, § 3-6 (distinguishing the position of mayor pro-tem and other council members in regards to a quorum). Further, the charter distinctly identifies differences between the offices of each council member. *See, e.g.*, EAGLE PASS, TEX., CODE OF ORDINANCES, § 3-1 (setting different years each Place seat can run).

Although not an elected position, if viewed in light of the guidance set forth by the *Sifuentes* case, there could be an argument that because it is a separate Place seat and because she held a separate position on the council, Ramon could run for a separate Place seat. Further, regardless of Place seat, an argument could be made that Ramon could run so long as she does not seek the position of mayor pro-tem upon election.

Therefore, the questions arise whether Ramon can run for a different Place seat or whether she can run as long as she does not seek the position of mayor pro-tem upon election.

Feel free to contact me if you need any additional information regarding this request.

Respectfully,



Roberto Serna

293rd Judicial District Attorney

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