

# THE ATTORNEY GENERAL

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Requests for Opinions, Opinions, Open Records Decisions.

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Requests for Opinions

**RQ-0094-KP**

**Requestor:**

The Honorable Joe Deshotel

Chair, Committee on Land and Resource Management

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Application of the conflict of interest rules in chapter 171 of the Local Government Code to members of a Planning and Zoning Commission or a Historic Landmark Commission who reside or own property within the historic district (RQ-0094-KP)

**Briefs requested by March 11, 2016**

**RQ-0095-KP**

**Requestor:**

The Honorable Angie Chen Button

Chair, Committee on Economic & Small Business Development

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether and to what extent limitations exist on the Facilities Commission's ability to renew leases for space under section 2167.055 of the Government Code (RQ-0095-KP)

**Briefs requested by March 14, 2016**

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-201600714

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: February 16, 2016



Opinions

**Opinion No. KP-0064**

The Honorable Jeri Yenne

Brazoria County Criminal District Attorney

111 East Locust Street, Suite 408A

Angleton, Texas 77515

Re: Circumstances under which a truancy court may refer a child to the juvenile probation department, and circumstances under which a child may be prosecuted for delinquent conduct (RQ-0046-KP)

## S U M M A R Y

A court would likely conclude that under subsection 65.251(b) of the Family Code, a truancy court may refer a child to the juvenile probation department for either failure to obey a truancy order or direct contempt; however, such a referral requires two prior instances of contemptuous conduct regardless of form—either failure to obey a truancy order or direct contempt.

A court would likely conclude that a juvenile prosecutor maintains discretion under subsection 65.252(d) of the Family Code to prosecute a child for delinquent conduct as set forth in subsection 51.03(a)(2)(C) of the Family Code even on a child's initial referral to juvenile court.

**Opinion No. KP-0065**

The Honorable G. A. Maffett III

Wharton County Attorney

100 South Fulton Street, Suite 105

Wharton, Texas 77488

Re: Definition of the term "site improvements" for purposes of section 501.103 of the Local Government Code, relating to an economic development corporation's funding of the same (RQ-0048-KP)

## S U M M A R Y

Under subsection 501.103(1) of the Local Government Code, the term "site improvement" should be construed to mean an improvement or permanent enhancement that relates to the development of an area of ground on which a town, building, or monument is constructed. The question whether any particular expenditure constitutes a project under section 501.103 is a question in the first instance for the board of the economic development corporation to determine.

**Opinion No. KP-0066**

The Honorable Rodney W. Anderson

Brazos County Attorney

300 East 26th Street, Suite 1300

Bryan, Texas 77803-5359

Re: Ad valorem taxation of real property owned by the Texas A&M University System (RQ-0049-KP)

**S U M M A R Y**

Property is exempt under Tax Code section 11.11 if a public entity holds legal or equitable title to the property and the property is used for public purposes. An owner who has the present right to compel legal title holds equitable title. A court is likely to determine that under subsection 11.11(e), property held or dedicated for the support, maintenance, or benefit of an institution or institutions of higher education that is leased to students or employees of such institution or institutions is tax exempt. If such property is leased to provide private residential housing to members of the public other than students and employees of the institution or institutions, the property may lose its exemption under subsection 11.11(e) of the Tax Code, in whole or in part.

**Opinion No. KP-0067**

The Honorable Natalie C. Koehler

Bosque County Attorney

Post Office Box 215

Meridian, Texas 76665

Re: County responsibilities regarding interstate extradition (RQ-0050-KP)

**S U M M A R Y**

Pursuant to articles 51.09 and 51.13 of the Code of Criminal Procedure, a person commissioned by the Governor in an extradition requisition to receive and return an out-of-state arrestee back to the county in which an offense was allegedly committed has the duty to carry out that responsibility. The actual and necessary expenses of a person so commissioned may be paid pursuant to article 51.10 or article 51.13, section 24, of the Code of Criminal Procedure.

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

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