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The Senate of  
The State of Texas

September 12, 2000

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RQ-0284-gc

The Honorable John Cornyn  
Attorney General of Texas  
Attn: Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

RECEIVED  
SEP 13 2000  
OPINION COMMITTEE

FILE # ML-41628-00  
I.D. # 41628

Re: Whether the board of directors of the Texas State Affordable Housing Corporation are state officers whose appointments must be made with the advice and consent of the Texas Senate.

Dear General Cornyn:

The purpose of this letter is to request an opinion on whether the board of directors of the Texas State Affordable Housing Corporation are state officers whose appointments must be made with the advice and consent of the Texas Senate.

The Texas State Affordable Housing Corporation is a non-profit corporation created by the legislature in 1995 to serve the housing needs of low income residents of Texas. The corporation operated as a division of the Texas Department of Housing and Community Affairs until 1997 when the corporation was separated from the department. An independent administration was appointed in 1998. The board of directors of the corporation consists of five members appointed by the governor. See TEX. GOV. CODE §2306.554(a) (Vernon 1999).

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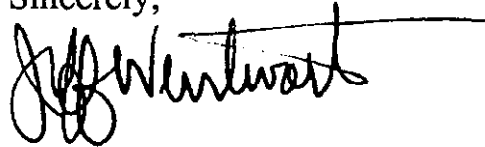
The corporation is required by statute to pay its expenses from any available fund without resort to the general revenue of the state unless state funds are specifically appropriated by the legislature. *See* TEX. GOV. CODE §2306.555(f).

Article Four, Section 12(a) of the Texas Constitution provides that all vacancies in state offices shall be filled unless otherwise provided by law by appointment of the Governor. Article Four also states that an appointment of the Governor shall be with the advice and consent of the Texas Senate.

It is unclear whether the board of directors of the Texas State Affordable Housing Corporation are state officers whose appointments would require the advice and consent of the Texas Senate.

I respectfully request an opinion on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Wentworth", with a long horizontal line extending from the end of the signature.

Jeff Wentworth

JW/ml