



House Committee On
Urban Affairs
P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910

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OPINION COMMITTEE

2462

October 8, 2001

The Honorable John Cornyn
Attorney General
P.O. Box 12548
Austin, TX 78711

FILE # ML-42219-01
I.D. # 42219

Dear General Cornyn:

The purpose of this letter is to request a legal opinion on an issue brought to me by a group of Bexar County citizens.

A sexually oriented business (SOB) was issued a permit for business by the City of San Antonio. The business is located completely within the City of San Antonio, although it is located on the boundary of the city. Located within 1000 feet of the SOB is the Windcrest United Methodist Church in the City of Windcrest. The location of the permitted SOB violates the ordinance governing sexually oriented businesses in of the City of Windcrest and the City of San Antonio which prohibits SOB's within 1000 feet of a church. The permitted location of the SOB also violates the ordinance governing SOB's by Bexar County which prohibits SOB's within 1500 feet of a church. However, the City of San Antonio has refused to enforce its SOB ordinance since the Church is not located within the City of San Antonio.

The legal question is:

Can a municipality enforce its own sexually oriented business ordinance when the protected entity is located outside the boundary of the municipality?

Please contact my office for any further information you might need.

MEMBERS:

LON BURNAM, BILL CALLEGARI, AL EDWARDS,
HARRYETTE EHRHARDT, FRED HILL, ELIZABETH JONES, MANNY NAJERA

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Sincerely,

Bill G. Carter

Bill G. Carter
Chairman, House Committee on Urban Affairs

enc: City of San Antonio Code Sec. 35-3305
City of Windcrest Code Sec. 23.2101

cc:
Honorable Elizabeth Ames Jones
P. O. Box 2910
Austin, TX 78768

Mr. Frank Garza
City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, TX 78283

Mr. Michael S. Brennan
City Attorney
City of Windcrest
8601 Midcrown
Windcrest, TX 78239