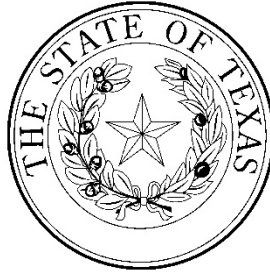


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By Opinion Committee at 4:34 pm, Aug 14, 2024

RQ-0558-KP



August 14, 2024

Office of the Attorney General
Via email: opinion.committee@oag.texas.gov
Request for Opinion/Open Records Division
P.O. Box 12548
Austin, Texas 78701

RE: Request for AG’s Opinion on whether local governments can create gun bans, that would be otherwise prohibited under the law, by simply working through a 501(c)(3) or other private entity.

General Paxton:

We write to you today seeking an opinion as to whether a local government can create gun bans, that would be otherwise prohibited under the law, by simply working through a 501(c)(3) or other private entity. Specifically, whether the State Fair of Texas can lawfully deny law-abiding citizens their rights to carry, as they have recently proposed to do.

Texas law enumerates the types of government property on which firearms are prohibited (PENAL CODE § 46.03). Moreover, state agencies and political subdivisions that wrongfully exclude law-abiding gun owners are subject to fines (GOVERNMENT CODE § 411.209). Texas’ firearms preemption statute also restricts localities from enacting their own firearm restrictions (LOCAL GOVERNMENT CODE § 229.001).

In a 2016 opinion, you examined firearm prohibitions in circumstances where a private entity sought to restrict firearms on property leased from the government ([Tex. Atty. Gen. Op. KP-0108](#)). In that opinion, you suggested that in a circumstance where the lessee was sufficiently intertwined with the government, their ability to prohibit firearms may be curtailed. Specifically, you explained:

If a private entity is operating jointly with a governmental entity or has been hired by the governmental entity to perform certain governmental functions, fact questions could arise about which entity effectively posted a notice prohibiting the carrying of guns. However, under the facts you describe, the private, nonprofit entity appears to have an arms-length agreement to lease city property and is not otherwise affiliated with the city.

The State Fair of Texas fact pattern gives rise to a set of questions. Is the not-for-profit- “operating jointly with a government entity?” Does the entity have “an arms-length agreement to lease city property” with the City of Dallas?

For instance, the [City of Dallas Annual Budget FY 2023-2024](#) contained a portion titled “Parks and Recreation Services Descriptions.” A section on Fair Park noted, “Provides for the development of projects within Fair Park. These projects often are completed **in partnership with the State Fair of Texas, Inc.** or other institutions who have a stake in the development of the park.” (emphasis added). Further, the City Code of Dallas regulates Fair Park and specifically the State Fair, which shows where the City of Dallas exerts significant control over the operations of the fair; thus, standing for the proposition that the city and the private State Fair of Texas are intertwined in running the fair. *See* Sec. 31-11.5 – 32.20; and, 32-21 – 32-28.3 of DALLAS CITY ORDINANCES.

Respectfully submitted,



Senator Mayes Middleton
Senate District 11



Representative Dustin Burrows
House District 83