Update: Open Meetings Act Challenge

Last week, the Texas Court of Criminal Appeals (the highest criminal court in Texas) accepted a petition for review in *Doyal v. State of Texas*. The issue in the case is whether the “criminal conspiracy” provision in the Texas Open Meetings Act serves as an unconstitutional infringement on elected officials’ free speech rights.

The provision states that:

*A member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter.*

The arguments that the provision is unconstitutional are that: (1) the fact that an elected official can be put in jail based on the content of his speech is prohibited by the First Amendment; and (2) the statute is so vague that an elected official can’t know what activity violates the law.

Last summer, a Montgomery County trial court declared the criminal conspiracy provision unconstitutional. The case arose when a county judge and two commissioners were indicted for
violating the provision when they allegedly engaged in a so-called “walking quorum.” The criminal punishment could include up to a $500 fine and six months in jail.

The state appealed the trial court decision to the Beaumont Court of Appeals, which overturned the trial court. The elected officials appealed that decision to the Court of Criminal Appeals, where the case is now pending. (The Court of Criminal Appeals is akin to the Texas Supreme Court, but considers criminal matters like the one in this case.)

The League, joined by the Texas Association of Counties and the Conference of Urban Counties, submitted an amicus brief detailing the problems related to the criminal conspiracy provision. (The brief focused on how the provision affects cities and counties, rather than individual elected officials.)

League staff will continue to monitor and report on the progress of the case.

**Fair Housing Outreach**

The Texas Department of Housing and Community Affairs (TDHCA), General Land Office, Department of State Health Services, and the Texas Department of Agriculture are requesting public input for the development of the state’s draft “Analysis of Impediments (AI)” to Fair Housing Choice.

Public consultation meetings will be held in June and July 2018 throughout the state to gather input on the needs of Texans and goals for use of future federal program funds.

Feedback is sought regarding fair housing issues, particularly issues affecting protected classes under the Fair Housing Act (i.e., race, color, religion, national origin, sex, disability, and familial status) and the ability of those persons to exercise housing choice.

Details regarding the development of the draft AI are available at:

[https://www.tdhca.state.tx.us/fair-housing/analysis-impediments.htm](https://www.tdhca.state.tx.us/fair-housing/analysis-impediments.htm)

To view AI events, please visit TDHCA’s online Calendar and select “Fair Housing Listings:”

[http://www.tdhca.state.tx.us/events/index.jsp?eventTypeID=all&showNum=20](http://www.tdhca.state.tx.us/events/index.jsp?eventTypeID=all&showNum=20)

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