

Public Safety & Homeland Security Houston Legal Department Responses

Public Forum August 26, 2021

Question: "[Regarding] ...Application of the Open Meetings Act, and the prohibition of firearms at meetings that are covered by that act. We (The Libertarian Party of Harris County) would like to the City Legal Department's take on which meetings are covered by that, including things like the HOA's, meeting of political parties that are open to the public, things like political conventions that are governed by the state elections law and whether those are covered by the Texas Open Meetings Act."

Response:

*Please note the following information provided is for informational purposes only, and should **not** be construed as legal advice on any subject matter.*

Texas Penal Code section 46.03(a)(14) prohibits firearms "in the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to Chapter 551, Government Code, and if the entity provided notice as required by the chapter."

Section 551.001(3) of the Government Codes lists the types of governmental bodies that must conduct their open meetings pursuant to the Open Meetings Act and would be covered by section 46.03(a)(14), which includes:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law;

(I) a local workforce development board created under Section [2308.253](#);

(J) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(K) a nonprofit corporation organized under Chapter [67](#), Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section [11.30](#), Tax Code;

(L) a joint board created under Section [22.074](#), Transportation Code; and

(M) a board of directors of a reinvestment zone created under Chapter [311](#), Tax Code.

The Open Meetings Act also applies to certain property owners' associations as provided below.

Sec. 551.0015. CERTAIN PROPERTY OWNERS' ASSOCIATIONS SUBJECT TO LAW.

(a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section [20](#), Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

(b) The governing body of the association, a committee of the association, and members of the governing body or of a committee of the association are subject to this chapter in the same manner as the governing body of a governmental body, a committee of a governmental body, and members of the governing body or of a committee of the governmental body.