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Hon. J . D. Lambright
Montgomery County
Attorney Alan B.
Sadler Building
Conroe, Texas 77301

Re: Request for Opinion letter from Texas Attorney General Ken Paxton, P.O. Box 12548, Austin, TX 78711-2548

Dear J. D.,

I am asking that you request a formal Attorney General opinion on the use of rented voters to confirm the establishment of Municipal Utility Districts by election in Montgomery County, which is for the issuance of millions of dollars in public bonds.

The Secretary of State has advised that temporary voters who establish residence under the Election Code using temporary trailers in three 2015 MUD confirmation elections met the residency requirements of the Election Code when they voted in these local elections. This advice appears to conflict directly with the decision of the Texas Attorney General's Office to file third degree felony charges against James Jenkins, Adrian Heath, Cybil Doyle, Roberta Cook, and Bill Bernsonin in a voter fraud case known as the RUD 7. Jenkins, Heath, Doyle, and Cook were put on trial by the Attorney General (Greg Abbott, at the time), for "illegal voting" while Bernson's case was dismissed due to his illness with cancer.

The persons prosecuted for the alleged "illegal voting" used a "temporary residence" hotel, located in the RUD district as their "permanent residence for voting purposes" under the Election Code, just the same as the voters who are renting trailers temporarily and using their locations to vote in the Municipal Utility District elections described above. The only difference shown by the facts are that the Municipal Utility District voters are being paid by developers to register and vote from a rented trailer, placed temporarily in the Utility District, to vote from their "residence" while the RUD voters were activist citizens who wanted to participate in the political process to ensure citizen participation in the RUD decisions to issue and finance public bonds issued by the RUD. This divergence of rulings has caused a great deal of public concern and confusion in Montgomery County.

Texas's voter registration law only requires that a person be a resident of the county at least 30 days prior to the elections, be a U.S. citizen, at least 18 on election day, properly registered, not a convicted felon who has not completed his sentence, and not mentally disabled as determined by a court of law.

Voters recruited and managed by Stingray Services, Inc. to participate in

confirmation elections for Montgomery County MUD NO. 142, Montgomery County MUD No.148 and Conroe Municipal Management District No.1, appear to have met the basic requirements and appear to have cast "legal votes" in these elections. In fact, Stingray Services actively recruits voters like these using craigslist and claims to have supplied voters statewide for more than one hundred elections over ten years . This appears to be the free exercise of political activity under the United States Constitutional provision authorizing the rights to "free speech and assembly." One couple recruited by Stingray has been used in two such elections in recent years . That all voters used a common mailing address belonging to Stingray Services (which was not their designated homestead), has not called into question the legality of their votes, which seems to conflict directly with the contentions of the Attorney General's prosecution of the RUD voters who's mailing addresses, income cases, included houses which they claimed as homesteads in filings with the County Appraisal District.

Along the same line, ten law enforcement officers are known to be claiming the Montgomery County Judges office as their residence for voting purposes and none has been prosecuted by the Attorney Generals' Office for "illegal voting" under the Election Code as the RUD voters have been.

In 1979 in *Symm vs. United States*, the Supreme Court affirmed the right of Prairie View students to vote in Waller County elections from their temporary residences at College. By a 5-4 vote, the Supreme Court rejected an appeal by Waller County by upholding a ruling by the 5th U.S. Circuit Court of Appeals finding that the Prairie View A&M University students had the right to use their temporary dorm rooms as their "residence for voting purposes."

The state argued in *Speights vs. Willis*, a *9th Court of Appeals decision*, that residency amounted to where a person intended to declare their permanent residence . The issue was litigated in response to seasonal visitors attempting to vote in the pending state Senate District 3 election. The courts ruled in favor of the state which allowed a number of votes to be counted in that race. Some who testified in that case had never even been to Texas but declared the seasonal location as their "residence for voting purposes" in Texas .

Two cases have emerged where the trailer used as voter residence was officially sanctioned and permitted by the City of Conroe as a "Temporary Voter Trailer." The scenario involving Montgomery County is no different . This surprising action by the Attorney Generals office in another case involving Woodlands RUD No. 1 is strongly perceived by many as an illegitimate and uneven application of the law against one set of voters who acted upon political motives instead of a developer's financial motives.

In particular, I am looking for an Attorney General opinion on the following

questions :

1. When private companies recruit voters on behalf of developers to confirm MUD elections and issue millions of dollars worth of public bonds in Texas, does that violate the definition of "residence" under the Texas Election Code?
2. Does the United States Constitution allow a person to establish a "residence for voting purposes" in the State of Texas using a temporary voter trailer or by renting a room at a Residence Inn?
3. Does the County Attorney have the jurisdiction or authority to prevent a law enforcement officer from claiming a government office as their residence for voting purposes?

Please consider this as a formal request for an Attorney General's Opinion clarifying the law regarding voter registration used for temporary residency purposes in MUD confirmation elections, RUD elections, or bond elections involving the Montgomery County Hospital District to which I am elected.

Sincerely,

Robert "Bob" Bagley

Elected Board Member, Montgomery County Hospital District

Modelled after RQ-0157GA which led to AG Opinion GA-0141

<https://texasattorneygeneral.gov/opinions/opinions/50abbott/op/2004/htm/ga0141.htm>