



COLLIN COUNTY

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March 1, 2017

VIA EMAIL AND FIRST CLASS MAIL

Mayor Brian Loughmiller
City of McKinney
222 N. Tennessee St.
McKinney, Texas 75069

RE: County constituent complaints regarding McKinney's attempted enforcement of building codes outside its corporate limits

Mayor Loughmiller:

I continue to receive complaints from persons residing outside the city limits of McKinney who are being told that McKinney representatives are demanding they obtain building permits for their construction-related activities in the Extra-Territorial Jurisdiction (ETJ).

While McKinney, as a home-rule city, enjoys powers of self-government under Article 11, section 5 of the Texas Constitution, such powers do not extend beyond the corporate boundaries of the city absent express legislative authorization. The law firm that your city attorney works for has said as much, in one publication stating:

As a general rule, a municipality's ordinances and other regulations are valid and enforceable only within the municipality's corporate limits; however, where there is an express grant of authority either by the Texas Constitution or statute to municipalities to enact and enforce ordinances and regulations outside the corporate limits of a municipality, municipalities consequently may do so.¹

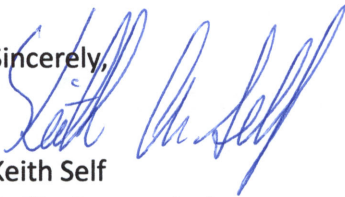
¹ See Op.Tex.Att'y Gen. LO97-055 (1997). In that opinion, the Attorney General's Office wrote as follows: As a general rule, a city can exercise its powers only within the city's corporate limits unless power is expressly or impliedly extended by the Texas Constitution or by statute to apply to areas outside the limits. See *City of Austin v. Jamail*, 662 S.W.2d 779,782 (Tex. App.—Austin 1983, writ diss'd w.o.j.); *City of West Lake Hills v. Westwood Legal Defense Fund*, 598 S.W.2d 681, 686 (Tex.Civ.App.—Waco 1980, no writ); *City of Sweetwater v. Hammer*, 259 S.W. 191, 195 (Tex.Civ.App.—Fort Worth 1923, writ diss'd); *Ex parte Ernest*, 136 S.W.2d 595, 597-98 (Tex.Crim.App. 1939); Attorney General Opinion JM-226 (1984) at 2. Extraterritorial power will be implied only when such power is reasonably incident to those powers expressly granted or is essential to the object and purposes

You and I both understand that in both the Custer Storage and Arch Resorts litigation, this is the exact issue to be decided by the courts.

In light of these matters, I urge the City to refrain from seeking to impose its building codes and permitting for construction-related activities in the ETJ until the City and County receive clarification as to the City's authority to do so from the courts.

Thank you for your consideration of these matters.

Sincerely,



Keith Self
Collin County Judge