



OFFICE OF THE SECRETARY OF STATE

DAVID A. DEAN
SECRETARY OF STATE

STATE CAPITOL
P.O. Box 12697
AUSTIN, TEXAS 78711

April 14, 1982

Mr. Gale Warren
Attorney at Law
120 North Graham
Stephenville, Texas 76401

Election Law Opinion
No. DAD-16
Re: Legality of Using
Rural Route or Post
Office Address,
Rather Than
Residence Address,
on Petition
Submitted Under
Texas Alcoholic
Beverage Code

Dear Mr. Warren:

Reference is made to your letter to my office of March 23, 1982, wherein you posed two questions concerning petition requirements under the Texas Alcoholic Beverage Code for a local option liquor election.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1982).

Specifically, your questions are: (1) Is it sufficient for a petitioner who lives on a rural route with a box number, but who has no street residence address, to list the rural route and box number as his residence address?, and (2) Is it sufficient for a petitioner who lives in an unincorporated rural town (which is part of a justice precinct in which the election will be held) to list a post office box number as his residence address when he has neither a street address nor a rural route address?

Tex. Alco. Bev. Code Ann. § 251.10(b)(5) (Vernon 1978) provides as follows: "No signature may be counted...where there is reason to believe that: the residence address of the signer is not correct...." (Emphasis added.)

We believe it is particularly apposite to note the way "address" is defined in Tex. Elec. Code Ann. art. 13.08(d) (Vernon Supp. 1982): "The petition [in lieu of filing fee] must show the following information with respect to each signer: His address (including his street address if residing in a city, and his rural route address if not residing in a city)...." (Emphasis added).

As stated in Salmon v. Lamb, 616 S.W.2d 297, 298 (Tex. Civ. App.--Houston [1st Dist.] 1981, no writ): "Courts are to interpret language used in statutes in a manner to make all relevant laws harmonious, if possible, and in a manner consistent with public policy of the state...." [Citing State v. Standard Oil Co., 130 Tex. 313, 107 S.W.2d 550 (1937).] The public policy of the State of Texas, as it applies to the situation adverted to in your letter, is made manifest in the Bill of Rights to our Constitution: "No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land." Tex. Const. art. I, § 19 (emphasis added).

It is appropriate to note the similarities of purpose underlying Section 251.10(b)(5) and Article 13.08(d), supra. Both relate to elections. Both provide a mechanism whereby a registered voter may petition to have an issue or a candidate, as the case may be, placed upon the ballot for the electorate's consideration.

If the term "residence address" in Section 251.10(b)(5) were to be literally construed (i.e., requiring a street address only and disallowing a mailing address), such construction would result in the disfranchisement of those rural residents whose only address consists of either a rural route and box number or a post office box number. The right to sign a petition is an integral corollary of our electoral process, and to adopt a literal construction that would have the effect of disfranchising those citizens residing in rural areas who do not have a street address, in our opinion, is contrary to the public policy of this State.

In addition to the foregoing, we believe that the questions posed in your letter are answered by the court's holding in Tyler v. Cook, 573 S.W.2d 567, 570 (Tex. Civ. App.--San Antonio 1978, no writ):

"Relators' contention that the addresses given by the signers do not satisfy the requirements of Art. 13.50 [Election Code, requiring signer's 'address'] is without merit. La Salle County is a rural county. Only three towns have post offices. Mail is delivered on only one rural route; therefore, many qualified voters residing in La Salle County do not have a street address or a rural route address. A review of the 1978 registration list for La Salle County reveals that the addresses shown are the same as the addresses on respondents' application. [Here the court discusses Article 13.08(d), supra.] It would appear that a qualified voter living in a rural county not having a street address nor a rural route address would not be qualified to sign a petition under Art. 13.08(d). We doubt that the Legislature intended to disenfranchise such qualified voters under Art. 13.08(d)."

You are, therefore, advised that both of your questions are answered in the affirmative.

We do add, however, that petitioners who do in fact have a street address must state that address on a Section 251.10(b)(5) petition for the address to be valid. If such a petitioner lists either a business street address or a post office box mailing address, his signature cannot be counted.

SUMMARY

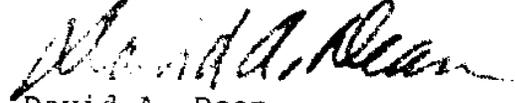
Pursuant to Section 251.10(b)(5), Texas Alcoholic Beverage Code, it is legally sufficient for a petitioner who does not have a street address to use either his rural route or post office box address as his residence address on a petition for a local option liquor election. However, if a

Mr. Gale Warren

Page 4

petitioner in fact has a street address, he must use it and not a business street address or a post office box address as his residence address on the petition.

Sincerely,



David A. Dean
Secretary of State

Willis Whatley
Counsel to the Secretary of State

Charles C. Bailey
Special Assistant to the Secretary of State

Prepared by Austin C. Bray, Jr.
Senior Staff Attorney

APPROVED:
OPINION COMMITTEE

M. E. Kosa, Chairman
Austin C. Bray, Jr.
Holly Compton
Charles E. Evans