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April 29, 2015

Board of Directors
Atascocita Community Improvement Association
c/o Sterling Association Services, Inc.
6842 N. Sam Houston Parkway West
Houston, Texas 77064

Re: Texas Open Meeting Act

Dear Board:

I am writing in response to the board's request that I provide a legal opinion stating whether the Atascocita Community Association is subject to the Texas Open Meetings Act.

The association is not subject to the Open Meetings Act. Generally the Open Meetings Act only applies to governmental entities. However, there is a very narrow application of the law to Property Owners' Associations. Texas Government Code Section 551.0015 defines the extent to which the Open Meetings Act applies to Property Owners' Associations. I have set forth the text of this section below.

This section provides very specific definitions of the associations to which it applies. There are two types of associations described. Atascocita Community Association does not satisfy either definition.

The first type of association subject to the Open Records Act is an association that calculates its assessments off of the tax appraised value of its members' property. Atascocita charges an equal assessment to all lots irrespective of its tax appraised value.

The second type of association subject to the Act is one that controls both residential and commercial property and does not require owners to be members in the association. Atascocita does not regulate commercial property and does have mandatory membership in the association.

The text of the relevant statute follows:

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

Please let me know if the board has any further questions.

Very truly yours,

HOLT & YOUNG, P.C.



James R. Young

JRY/jy