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DEPARTMENT OF JUSTICE

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BATON ROUGE

70804-9005

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OPINION 12-0206

Mr. Jacob D. Dagate  
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PUBLIC MEETINGS

La. R.S. 42:11 *et seq.*

La. R.S. 42:14

La. R.S. 42:19

La. R.S. 40:456

La. R.S. 40:510

The Houma-Terrebonne Housing Authority Board of Commissioners ("HTHA") may not exclude an individual who has been placed on a No-Trespass List from attending a public meeting of the HTHA held at the HTHA property for which the No-Trespass List applies when the HTHA has not obtained an injunction, sanction or other legal relief as described by La. R.S. 40:510 for the temporary or permanent exclusion of the individual.

Dear Mr. Dagate:

Our office received a request from you for an opinion involving the Houma-Terrebonne Housing Authority Board of Commissioners ("HTHA"). Your letter references a complaint received by the Terrebonne Parish District Attorney's Office by a citizen, who has alleged the HTHA's meetings are in violation of the Open Meetings Law, La. R.S. 42:11 *et seq.* Alternating meetings of the HTHA are held at the Senator Circle Housing Complex, and the citizen has complained about her inability to attend the public meetings since she is currently on a No-Trespass List for the Senator Circle Housing Complex. We note that you have indicated that the HTHA has permitted the complainant to attend public meetings located at the Senator Circle Housing Complex pending an opinion from our office.

Your request letter contains background information about the location site of the HTHA meetings, providing that for the last several years, the location of the regular monthly HTHA Board meetings has rotated each month between the Bayou Towers Housing Complex and the Senator Circle Housing Complex. The two housing complexes are the only housing complexes owned and operated by the HTHA and are located on different sides of the City of Houma. You indicate that since the tenants of the HTHA are elderly and/or low income, the HTHA has made it a priority for the residents of each complex to have convenient access to as many HTHA meetings as possible by alternating the meetings between the two housing complexes. For this reason, the HTHA feels it important to continue alternating the location of the meetings between the two complexes so that the residents of the Senator Circle Housing Complex are afforded with convenient access to meetings.

Further, your letter provides that the citizen who has complained ("Complainant") about the location of the meetings has been placed on a No-Trespass List due to detrimental and disruptive conduct towards Senator Circle Housing Complex residents and HTHA property. Additionally, the Complainant was previously evicted from a Senator Circle Housing Complex apartment as a result of three separate instances of physical altercations between her guests during the time in which she was a tenant of the housing complex. Your letter states that because she is on the No-Trespass List, she could be subject to criminal prosecution should she choose to attend the meeting at the Senator Circle Housing Complex. In further discussions, you indicate that the manner in which the HTHA placed this individual on the No-Trespass List involved internal agency action only. In other words, the HTHA did not seek any relief through the judicial system in placing this individual on the No-Trespass List.

In light of the above background information, you have asked our office to provide an opinion on the following questions:

1. Can a person who has been placed on a No-Trespass List for what the HTHA has deemed to be legitimate reasons be excluded from attending a public meeting of the HTHA held at the HTHA property for which the No-Trespass List applies?
2. If the answer to Question One is in the negative, can a person on a No-Trespass List be required to provide reasonable advance notice to the HTHA of his or her intention to attend a properly noticed public meeting held at the HTHA property for which the No-Trespass List applies?
3. If the answer to Question Two is in the affirmative, can the HTHA enforce the No-Trespass List if a person on the list fails to provide reasonable advance notice and enters HTHA property in order to attend a public meeting being held at the HTHA property for which the No-Trespass List applies?

A starting point of the analysis is the authority of the HTHA to place an individual on a No-Trespass List. La. R.S. 40:456 outlines certain powers of local housing authorities, Section (4) indicating that "A local housing authority may...Obtain injunctions, sanctions, and other legal relief for the temporary or permanent exclusion of such persons, as authorized in R.S. 40:510."

La. R.S. 40:510 provides:

Persons who are present on the developments or other property of the authority, and who are not residents, their guests, or employees of the local housing authority, its guests, law enforcement officers, or others conducting official business, may be excluded from such premises by the local housing authority, and, if said persons shall refuse to leave, after first being requested to do so, said persons shall be considered trespassers

who shall be subject to an applicable state or local trespass law. Additionally, and without limiting the foregoing, the local housing authority may obtain injunctions for the temporary or permanent exclusion of such persons from authority property.

Your letter confirms that the above-referenced statutes are the authority under which the HTHA has placed the Complainant on the No-Trespass List. However, as noted above, the HTHA did not obtain an injunction or sanction when placing the Complainant on the No-Trespass List, but rather did so solely through its own agency declaration. The statute gives local housing authorities the ability to exclude individuals who are not residents, their guests, or employees of the local housing authority, its guests, law enforcement officers, or others conducting official business. However, the last sentence of the above-cited statute indicates that if the local housing authority wishes to exclude an individual from authority property, whether it be on a temporary or permanent basis, an injunction must be obtained.

In responding to your inquiry it is relevant to consider the basis for the Open Meetings Law. The right to direct participation is based upon La. Const. art. XII, §3, which provides that “[n]o person shall be denied the right to observe the deliberations of public bodies...except in cases established by law.” The legislature enacted the Open Meetings Law to help define and describe this right of access. A basic element of the Open Meetings Law is that every meeting of a public body shall be open to the public unless closed pursuant to La. R.S. 42:16, La. R.S. 42:17 or La. R.S. 42:18. La. R.S. 42:14(A).

First, we address the fact that the location of the meetings alternate between the two housing complexes. The Open Meetings Law does not prescribe where the meeting of a public body must be held; however, it does require that adequate notice be provided to the public of the location in which a meeting will be held. La. R.S. 42:19(A)(1)(b)(ii). There is nothing indicating any deficiencies in the notice provided of the location, and we again note that the purpose behind alternating the locations of the meetings between the two housing developments is to ensure that citizens who are residents of the facilities have convenient access to the meetings. The complaint about the location stems from the fact that anyone who has been excluded from a development or property of the HTHA under La. R.S. 40:510 will not be able to attend a meeting of the HTHA. Your first question is whether a person who has been placed on a No-Trespass List may be excluded from attending a meeting of the HTHA held at the HTHA property for which the No-Trespass List applies.

As mentioned above, in the scenario you have provided, the exclusion of the Complainant has been done without judicial intervention. This is relevant, as she has not been provided with an avenue to dispute the HTHA’s decision, nor has she been provided with an avenue to seek the relief she has requested from an independent party, such relief being the limited authorization to enter the premises for the purpose of attending a HTHA meeting.

You have indicated that the reason the Complainant cannot attend the meetings held at one of the locations chosen by the HTHA is a threat of criminal prosecution for reasons attributed to her previous actions involving the HTHA facility, more specifically, a history involving physical altercations and aggression at the Senator Circle Housing Complex. We also note that there is no evidence that the HTHA has chosen the locations of its meetings for the purpose of excluding any individual, and in fact, seems to have chosen the locations with the specific intent to provide convenient access to citizens interested in the actions of the HTHA.

The Complainant could certainly request the HTHA to allow a limited exception to the No-Trespass List for the purpose of allowing her to attend meetings held at the Senator Circle Housing Complex, which seems to be the consideration prompting this opinion request. In light of the fact that the right to observe the deliberations of public bodies is a right protected by the Louisiana Constitution,<sup>1</sup> granting this request is an amicable resolution to the situation. However, should the HTHA wish to continue the exclusion of the Complainant from attending its meetings, then the HTHA would need to seek an actual injunction order from the court, requesting the order specifically consider whether or not she should also be prohibited from attending HTHA meetings at the Senator Circle Housing Complex.

Your primary inquiry is whether the HTHA may exclude an individual from attending a public meeting of the HTHA at a property in which the individual has been placed on a No-Trespass List. While there may certainly be scenarios whereby an individual's actions could cause them to be ineligible to attend a public meeting, in light of the constitutional protection of the right to observe and attend open meetings and considering the specific facts you have provided, such a restriction would be inappropriate without the HTHA seeking an order for the temporary or permanent injunction of the Complainant from the courts. Such injunction would provide the Complainant with some course of action from an impartial source should he or she believe it appropriate to revisit the issue and would also serve to protect the HTHA from any claims of malice behind any continued exclusion. Without such an injunctive order, this office is of the opinion that the HTHA cannot prevent the Complainant from attending HTHA meetings at the Senator Circle Housing Complex.

In light of the conclusion that the individual cannot be excluded from a public meeting by virtue of the HTHA's internal decision to place her on the No-Trespass List, we move onto your remaining questions, which concern whether or not the public body can require advanced notice of her intent to attend a meeting of the HTHA, and further, restrict access in the event the Complainant fails to provide adequate notice. There is no authority in the Open Meetings Law to require any attendees of an open meeting to provide advanced notice of intent to attend a meeting. While the HTHA could certainly

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<sup>1</sup> La. Const. art. XII, §3.

request such notice as a courtesy, there is no authority to exclude the Complainant should advanced notice not be provided.

However, in light of the concerns you expressed of the previous behavior of this individual, we also note that the ability to attend public meetings is not without limit, and a public body has the authority to remove any individual who disrupts a meeting such that orderly conduct is compromised. La. R.S. 42:17(C).

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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