



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 440

November 9, 2001

Regarding the application of section 572.057 of the Government Code to a building owned in part by a legislator. (AOR-491)

The Texas Ethics Commission has been asked to consider the following question:

Can a legislator divide ownership in an office building so that he owns approximately one-half of the building and another individual owns the other half of the building, and then have his legislative office in a portion of the half of the building which is owned by the other person, and thereby receive an appropriate lease payment from the State to reasonably compensate for the space required to house the legislative function?

Section 572.057 of the Government Code, which prohibits a legislator from leasing office space to the legislature, provides as follows:

- (a) A member of the legislature, an executive or judicial officer elected in a statewide election, or a business entity in which the legislator or officer has a substantial interest may not lease any office space or other real property to the state, a state agency, the legislature or a legislative agency, the Supreme Court of Texas, the Court of Criminal Appeals, or a state judicial agency.
- (b) A lease made in violation of Subsection (a) is void.
- (c) This section does not apply to an individual who is an elected officer on June 16, 1989, for as long as the officer holds that office.

See generally Gov't Code § 572.005 (definition of "substantial interest").

The specific question raised here is whether, in order to avoid a violation of section 572.057, it is possible for a legislator and another individual to structure ownership of a building in a way that would permit office space in the building to be leased to the state. In other words, the question is about the legal effect of a private real estate transaction. That question is outside the scope of the Ethics Commission's authority.

SUMMARY

The Ethics Commission has no authority to issue an opinion about the legal effect of a private real estate transaction.