

The Role of the Mayor and the City

Municipal housing authorities such as the El Paso authority were created by the State of Texas and are governed by the “Texas Housing Authorities Law” which is found in Chapter 392 of the Texas Local Government Code. A municipality does not create an authority, the authority exists because it is created by statute. However, an authority may not begin operations or exercise any of its powers until such time as the municipality passes a resolution declaring the need for a housing authority. The need is determined based upon a finding that there is:

1. unsanitary or unsafe inhabited housing in the municipality; or
2. a shortage of safe or sanitary housing in the municipality available to persons of low income at rentals that they can afford.

The law does not grant municipalities supervisory power or control other than what is contained in the Local Government Code. A housing authority exists in its own right, a public body that is separate and apart from the municipality. Evidence of this fact is contained to throughout the Local Government Code. Some examples are as follows:

1. The powers of the housing authority are specifically vested with the board of commissioners and the city council of the municipality has no oversight of the decisions. Section 392.051
2. The housing authority board of commissioners may employ a secretary, who shall serve as executive director, and may employ technical experts and other officers, agents, and employees, permanent or temporary, the authority considers necessary. The authority shall determine the qualifications, duties, and compensation of the persons employed. Section 392.056
3. A housing authority is a unit of government and the functions of the authority are essential governmental functions. Section 392.006
4. A housing authority may make, amend, and repeal bylaws and rules that are consistent with the Local Government Code to implement the authority's powers and purposes. Section 392.065
5. The bonds and other obligations of an authority are not a debt of a municipality, a county, another political subdivision of the state, or the state, and a municipality, a county, another political subdivision, or the state is not liable on the bonds. Section 392.085

6. A commissioner may not be an officer or employee of the municipality. Section 392.031(b)

The City's involvement is limited to passing the resolution that declared the need for the housing authority and authorized the commencement of operations. The mayor's role is limited to the appointment and removal of commissioners in accordance with provisions of the Local Government Code. The mayor may remove a commissioner of a municipal housing authority for inefficiency, neglect of duty, or misconduct in office. Before a commissioner may be removed, the commissioner must be given:

1. A copy of the charges before the 10th day before the date of a hearing on the charges; and
2. An opportunity to be heard in person or by counsel at the hearing.

If a commissioner of a municipal housing authority is removed, a record of the proceedings with the charges and findings shall be filed in the office of the clerk of the municipality. Section 392.041