

AFT Presentation on Letter Opinion 96-111. February 6, 2014

Tonight I will be reading from a ruling by the Texas Attorney General's office. Responding to a question raised by the Commissioner's Court of Upshur County, Letter Opinion Number 96-111, is referenced on page 36 of the Attorney General's 2014 Open Meetings Handbook as guidance for conducting citizen comment periods in meetings of public boards including college boards. In the interest of time I will read excerpts; I have copies of the entire letter for anyone who is interested.

Dear Mr. Cone:

You ask whether a commissioners court may refuse to hear a person who wishes to complain at a meeting of the court about the lack of maintenance of a county road.

As you suggest in your brief, we think that the commissioners court has broad discretion in exercising its statutory powers under the Local Government Code, and may limit the number of persons who may speak on a topic and the length and frequency of their presentations. However, it must act reasonably and may not discriminate on the basis of the particular views expressed, nor arbitrarily deny citizens their right to apply to the government for redress of grievances by "petition, address or remonstrance," as guaranteed by article I, section 27 of the Texas Constitution. . . .

[I]f the commissioners [have] adopted a policy of opening the floor to citizen comment, Attorney General Opinion H-188 counsels that such a policy must be administered in an even-handed fashion, and that the commissioners may not discriminate against a particular point of view. Such limits as the commissioners court adopts must not be arbitrary or unreasonable, and must not unfairly discriminate among views seeking expression. . . .

[W]e agree with your conclusion that the court "may set some degree of limits on the number of persons who speak on a particular subject and how often they speak on a particular subject but probably not limit the specific subject matter as it relates to any constitutionally guaranteed right of freedom of speech." Such a limitation would likely violate the right of petition and remonstrance; were that the case, the action would be arbitrary and unreasonable, and therefore an abuse of discretion.

S U M M A R Y

A commissioners court may set reasonable limits on the number, frequency, and length of presentations before it, but may not unreasonably discriminate in deciding what matters to consider, or what speakers to hear.

Yours very truly,

James E. Tourtelott  
Assistant Attorney General