

Lambright declines to send rent-a-voter opinion request

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By Jay R. Jordan

County Attorney J D Lambright refused to request the legal opinion of the Texas attorney general on a recent election fueled by rent-a-voters in Conroe after advocates for those convicted in a 2010 voter fraud case requested he do so. With each of the four people convicted in the 2010 Woodlands Road Utility District No. 1 election making appeals, Bob Bagley with the Montgomery County Tea Party asked Lambright's office for the request, but was denied shortly thereafter.

First Assistant County Attorney B.D. Griffin said they decided not to take the issue to Texas Attorney General Ken Paxton, because the County Attorney's Office believes the issues Bagley posed were questions of facts rather than questions of law. "(The attorney general) only opines on questions of law," Griffin said. "If it requires a determination of facts, and applying the law to facts, they say (they) don't give an opinion on it." Griffin said because Bagley requested the county attorney seek an opinion on specific facts, being whether or not the rent-a-voter services are legal, the county attorney's office decided not to seek an opinion predicting that Paxton's office would say the same thing.

But Bagley still wishes there was a way to get an opinion from Paxton's office, saying he doesn't understand why the county attorney didn't seek the opinion request. He likened the rent-a-voters to those in The Woodlands RUD case, saying they are essentially the same.

That case began when Jim Jenkins and a group of residents, after reportedly consulting with state officials, moved into The Residence Inn in The Woodlands and changed their voting addresses to that location in order to vote in The Woodlands Road Utility District election in an effort to gain control of the board. They initially ousted the RUD board incumbents in a 10-2 vote. However, the three incumbents, Gene "Ed" Miller, Bill Neill and Winton Davenport, filed suit alleging the results were obtained by illegal votes.

A visiting judge ruled that the 10 Montgomery County residents who voted did not reside within the WRUD boundaries and were "fraudulent," meaning their votes were thrown out and Miller, Neill and Davenport were reinstated.

"I'm not real sure why (the opinion request) didn't go through (to the AG's office)," Bagley said. "We have two separate cases, but they're both the same thing." He differentiated the two saying the rent-a-voters were paid by Stingray Services to move into trailers in November 2015 and vote to create special districts and pass bond measures in three parts of Conroe.

"I think the attorney general's should rule on it, or I think they should have the ability to look at it and to rule on it," Bagley said. "... They may be in that house, but they're being paid to be there and everything else, so I just have a real problem with that compared to what took place with the RUD." However, Bagley is hoping Paxton's office would be able to clarify the law.

One of the Woodlands RUD 10, Adrian Heath, has been fighting for his innocence, claiming he was informed and believes that what he and the others did was legal. He said Lambright should

request the opinion. Heath was sentenced to three years in prison and fined \$10,000 in November 2014. He is currently out on a \$1,500 appeal bond as his case is to be ruled on by the 9th Court of Appeals any day now.

"We can't forecast what Attorney General Paxton's action is going to be ..." Heath said. "What risk is there to make the request and have him ignore it or refuse it? What risk is there? ... Does J D Lambright think that I'm guilty? Or is it that he just doesn't want to be seen to be advocated for somebody that everyone else thinks is guilty?"

Griffin mentioned a May 2015 request the county attorney filed with Paxton's office seeking an opinion on whether the county could host its tax sales at the Montgomery County Convention Center in lieu of in the commissioners' courtroom. Paxton refused to make a decision, claiming that request was a question of fact rather than law.

When asked why they would not send the AG's office an opinion request and let them decide, like they did so with the tax sales issue, Griffin said the rent-a-voters request "clearly doesn't meet the requirements," and that "(the County Attorney's Office) knows what the requirements are." "(The tax sales request) is not that apparent that it was a fact issue," Griffin said. "... In that one, the facts were undisputed."

Still, Heath hopes to get an AG opinion somehow.