



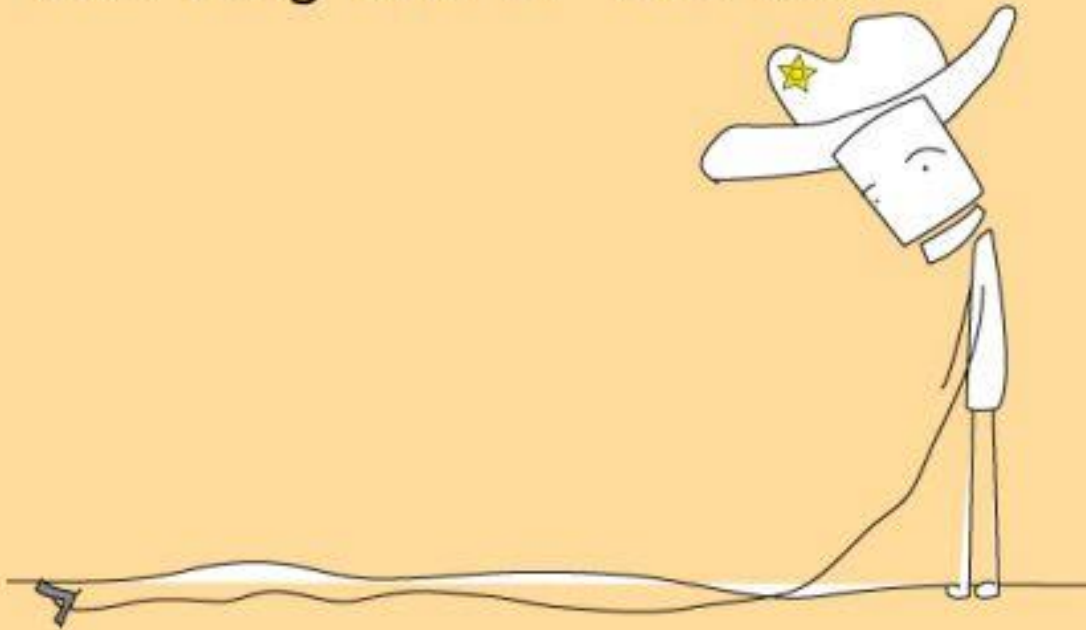
Anti-Displacement Task Force

Texas Open Meetings Act
January 5, 2018



Texas Open Meetings Act ... it's the LAW.

the long arm of the law.



- **WHAT IT IS:**

TOMA is a statute (enacted to benefit the public rather than governing bodies) that mandates open public access to all non-excepted meetings of governmental bodies.

- **WHERE IT IS:**

Codified in Texas Government Code, Chapter 551.



• WHAT IT SAYS:

Requires that every meeting of a subject body, with certain narrow enumerated exceptions, be

- open to the public, and
- posted as to notice of time, place, and subject matter of items to be discussed, and
- memorialized with a record.



Who does it apply to?



- **BY CODE:**

All city boards are required to comply with TOMA, per City Code §2-1-3(D). This specifically includes a task force:

“ ... all temporary and permanent boards, commissions, and task forces ... that are established solely by council shall comply with Chapter 551.”



- **CODE DEFINITION:**

City Code §2-1-2(E): “ TASK FORCE means a non-codified temporary advisory body established by resolution or ordinance for a specific purpose that expires upon the completion of its assigned task or according to a specified deadline.”



What is a QUORUM?

- **DEFINITION:**

A simple majority of the members of a body.

- **ANTI-DISPLACEMENT TASK FORCE QUORUM:**

This is a 17-member body, so 9 constitutes a quorum.

- **POSTING REQUIRED:**

If a quorum is going to be present at anything other than a purely social or ceremonial function, a meeting notice must be posted.



What is a MEETING?



What is a MEETING?

- **DEFINITION:**

A verbal exchange among a quorum of the body ...

- “verbal” also means “non-verbal” texts or emails or interactions (courts and AG).

... or between a member of the public, or staff, and a quorum of the body ...

... during which at least one member of the body is participating in a deliberation of public business over which the body has had, has, or will have control.



Meeting? Yes, under several scenarios.



Meeting? Maybe, if social turns to business.



Where and when a quorum holds a “meeting” is irrelevant: Acker case



Subcommittees or working groups

- If more than a quorum of members serve on any subcommittee or working group, that smaller group is subject to TOMA and its meetings must be posted.
- To avoid being subject to TOMA, a working group
 - must be formed to study a limited issue,
 - must be less than a quorum,
 - must not make final decisions, and
 - must be temporary.



Walking Quorum

“Danger, Will Robinson!”

- “It is an offense to knowingly circumvent the Act by meeting in numbers less than a quorum for the purpose of secret deliberations, or
- for members of a governmental body to gather in numbers that do not physically constitute a quorum at any one time but who, through successive gatherings, secretly discuss a public matter with a quorum of the body with the objective of avoiding an open meeting.”



Walking Quorum

- A quorum does not have to be in the same place at the same time. Sequential contacts, and cumulative contacts, can add up to a quorum.
- Complaints alleging walking quorums are prosecuted by county attorneys, district attorneys, and criminal district attorneys, and the AG can assist in criminal prosecution.
- The AG terms this part of TOMA a “conspiracy provision.”



Penalties for TOMA Violations

- Actions of the body can be voided, via lawsuit.
- Lawsuits can be brought to force compliance.
- Attorneys fees can be assessed.
- Calling, or aiding in calling, or participating in a meeting in violation of TOMA carries Class C misdemeanor penalties.



Mandatory TOMA and PIA Training

- Texas Government Code §551.005 requires elected and appointed public officials to receive training in open government laws within 90 days of taking office.
- Attorney General provides free video training courses that comply with this requirement.
- Link is <https://www.texasattorneygeneral.gov/og/open-government-training>
- An online Course Completion Certificate must be obtained and filed with the City Clerk.



**Thank you for
your service on the
Anti-Displacement
Task Force**

