



MAYOR ALLEN OWEN

1522 Texas Parkway
Missouri City, Texas 77489

Phone: 281.403.8500
www.missouricitytx.gov

February 22, 2011

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: SEC Ruling, File Number S7-45-10

Dear Chairman Shapiro and Members of the Commission,

Thank you for the opportunity to comment on the SEC's proposed rule requiring municipal advisors to register with the SEC. I am writing on behalf of the City of Missouri City, Texas, and its appointed boards and commissions that may be affected by the definition of "municipal advisor" as proposed in Release 34-63576. The definition as currently proposed fails to exempt appointed local government officials and volunteers from the definition of "municipal advisor." The Commission's proposal overreaches. The proposal reflects a misunderstanding of basic principles of local government law. The proposal will have a significant negative effect on the city's budget and its operations.

In discussing the definition of "municipal employee," and in response to the question of whether appointed officials of a local government entity were intended to be included with the definition of "municipal employee," the proposal responds:

...The Commission does not believe that appointed members of a governing body of a municipal entity that are not elected *ex officio* members should be excluded from the definition of a "municipal advisor." [Footnote omitted.]

Municipal advisors. 76 Fed. Reg. 834 January 6, 2011.

The City of Missouri City depends upon its citizens to help facilitate and run their city government through varying volunteer activities. Community volunteers give their time, expertise and common sense to enable their city government to plan, zone, invest and run many facets of the city.

Many of these volunteers hold appointed offices on city boards and commissions, including the boards of the tax increment reinvestment zones created by the city and the city's planning and zoning commission. The reinvestment zone boards, with the consent of the city council, may issue bonds. The planning and zoning commission is required by the city's home-rule charter to annually make recommendations about the city's capital improvements plan. These volunteers

CITY OF MISSOURI CITY

are not considered city employees and are not elected. Thus, the position quoted above creates the problem of requiring these volunteers to spend money on registration and to subject themselves to federal regulatory controls, which would expose them to heightened liability.

Individuals who currently hold these positions subject themselves to state ethics and local ethics laws and common law responsibilities that include potential penalties for malfeasance. Each of these controls meet the Commission's stated intent to protecting the public by providing a significant deterrent to misconduct that another layer of protection does not enhance. The current definition of "municipal advisor" will expand the cost to Missouri City. The complexity of those regulations will deter volunteer service.

Requiring registration for volunteer board members and commissioners who discuss how to best invest public funds chills informed analysis and debate—exactly the opposite result the SEC should be seeking. The SEC is failing to recognize that members of the city council actually operate the city. No bonds or debt can be issued without the consent of the city council. The "municipal advisors" serve the city council. It confuses the issue to suggest that those officials—the intended beneficiaries of municipal advisor regulation—somehow are "municipal advisors" themselves. In short, the proposed regulations turn on its head the concept of "advice" and transform decision makers of entities who should be receiving advice into "advisors."

The city council relies on legal counsel and financial advisors, who are paid for these services, to provide guidance and feedback on any bond issuance or other financing that the city undertakes. To ask our volunteer board and commission members to register with the SEC, with all its attendant requirements, would be so onerous as to discourage talented individuals from serving on our boards and commissions.

The cost to the city and its volunteers to comply with this regulation will be extensive and comes at an inopportune time. The city will be required to pay the cost of registering and providing required education for municipal advisors who service the city in a volunteer capacity. The city will incur insurance costs to cover the increased liability. In addition, the city will need to hire counsel with expertise in dealing with the SEC to be sure that these volunteers are properly trained and advised in the intricacies of securities law, without reducing the expense for counsel and various advisors who in the past have handled issues on behalf of the city.

I ask respectfully that you expand the exclusion for local government officials, including among them volunteers and appointed board members that may advise "municipal entities," from the requirement to register as "municipal advisors" by including them within the definition of "municipal employee."

Sincerely,

A handwritten signature in black ink that reads "Allen Owen". The signature is written in a cursive, flowing style.

Allen Owen
Mayor

CITY OF MISSOURI CITY