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HYDE KELLEY
ATTORNEYS AND COUNSELORS AT LAW

George Hyde, Managing Partner, Presenting:
Ethics Commission Form 1295 Certificate of Interested Parties
In light of Legacy Hutto, LLC v. City of Hutto, Texas
& City of Hutto v. Wolverine Interests, LLC

A lesson and shift in Texas local government contracting.

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“BREAKING THE LAW, BREAKING THE LAW...”

“A contract made in violation of a statute is illegal. Estoppel and ratification doctrines will not make void contracts enforceable. Thus, we conclude that [the city] is not estopped from asserting the voidness of the contract and cannot ratify the void contract by accepting performance under it.”

City of Denton v. Mun. Admin. Services, Inc., 59 S.W.3d 764, 769–70 (Tex. App.—Fort Worth 2001, no pet.) (internal citations omitted).

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CONTRACTING WITH LOCAL GOVERNMENT = PERILOUS

“When a party contracts with a political subdivision of the state, the **burden is on the contracting party to ensure that the contract is valid and that the governmental entity has complied with all applicable laws governing contract approval and if they do not, they proceed at their own peril.**”

Richmond Printing v. Port of Houston Auth., 996 S.W.2d 220, 224 (Tex. App.—Houston [14th Dist.] 1999, no pet.) (party that contracts with governmental entity has duty to verify all statutory requirements are met; party that commences work without doing so “does so at its own peril”); *Bd. of Adjustment for City of San Antonio v. E. Cent. E. Cent. Indep. Sch. Dist.*, 04-14-00341-CV, 2015 WL 1244665, at *5 (Tex. App.—San Antonio Mar. 18, 2015, pet. denied) (property owner charged with notice provisions of ordinance and relies “at its own peril” on unauthorized actions of building inspector).

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DELEGATION DO'S AND DON'T

“A city's governing body **may not delegate the right to make decisions affecting** the transaction of city business.”

City of San Benito v. Rio Grande Valley Gas Co., 109 S.W.3d 750, 757 (Tex. 2003).

Cities **may delegate** to others “**the right to perform acts and duties necessary to the transaction of the city's business,**” but only by “resolution or ordinance, by majority vote.” *Id.*

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