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**TO:** State Board of Licensure for Architects, Professional Engineers, and  
Professional Land Surveyors

**FROM:** John J. Roberts  
Assistant Attorney General  
Business & Licensing Section

**RE:** Request for Opinion  
Bob Ward, City of Lamar

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## **INTRODUCTION**

Mr. Ward's October 24, 2006 e-mail message asks two distinct questions: (1) whether the City of Lamar ("City"), as a home rule city, is exempt from state statutes governing the practice of architecture; and (2) "Can [the City] write an ordinance allowing [the City] not to require as a city, [sic] the state statutes." The e-mail message also expresses uncertainty, but does not inquire, about whether the proposed project requires a stamped set of architectural drawings. This memorandum will focus upon the limit of the City's powers as a home rule municipality.

## **ANALYSIS**

In Colorado, home rule municipalities have all the statutory powers granted to all cities and towns, with the additional powers granted by Article XX of the Colorado Constitution. Article XX, particularly sections 1 and 6, grant home rule cities with specific enumerated powers. In addition, section 6 of Article XX grants to every home rule municipality "all other powers necessary, requisite or proper for the government and administration of its local and municipal matters" and "the full right of self-government in both local and municipal matters ... and any right or power essential or proper to the full exercise of such right." Section 6 of Article XX further provides that state statutes apply to home rule cities until superseded by the charter or ordinances of the municipality and that, in local and municipal matters, the charter and ordinances of a home rule city supersede conflicting state statutes. Thus, a home rule city's charter and ordinances may supersede conflicting statutes on local and municipal matters. Conversely, in matters of statewide concern, state statutes will supersede a conflicting charter or ordinance of a home rule city. In matters of

mixed state and local concern, a home rule city's ordinance may coexist with a state statute, provided there is no conflict; in the event of a conflict, the state statute supersedes the ordinance.

The chief question in this case is whether the regulation of architecture is a matter of local, statewide, or mixed state and local concern. In general, Colorado courts determine this question on a case-by-case basis. However, they have identified several factors to consider, including the need for statewide uniformity, whether the municipal ordinance has extraterritorial impact, whether the subject matter is traditionally governed by state or local government, and whether the Colorado Constitution identifies that the issue should be regulated by state or local legislation. *City of Northglenn v. Ibarra*, 62 P.3d 151 (Colo. 2003). In this matter, it is clear that there is a need for statewide uniformity in the practice of architecture, and it is equally clear that the regulation of architecture is traditionally a state affair. The Colorado Constitution has not addressed whether this issue should be governed by state or local law. However, the governing statutes strongly indicate that the General Assembly intended this area to be subject to state law: "The regulatory authority established by this part 3 is necessary to safeguard the life, health, property, and public welfare of the people of this state and to protect them against unauthorized, unqualified, and improper practice of architecture." C.R.S. § 12-25-301 (2006). In addition, at least one court of this state has found that regulation of professional licenses and conduct are matters of statewide concern. *See, e.g., Century Electric Serv. v. Stone*, 564 P.2d 953 (Colo. 1977) (holding that the comprehensive statewide regulatory scheme governing the practice of electricians is a legitimate state interest and operates to the exclusion of local ordinances); *see also City of Craig v. Public Utilities Commission*, 656 P.2d 1313 (Colo. 1983) (finding that the PUC's regulation of public utilities in the interest of public safety is a matter of statewide concern). "In matters of statewide concern, home rule cities are subject to state legislation." *City of Colorado Springs v. State*, 626 P.2d 1122, 1129 (Colo. 1980). In such matters, home rule cities may act only as specifically authorized by the constitution or statute. *See, e.g., Boulder County Apartment Assoc. v. City of Boulder*, 97 P.3d 332 (Colo. App. 2004).

## CONCLUSION

It is my legal opinion that regulation of the practice of architecture is a matter of statewide concern. Therefore, the City of Lamar is not exempt from the state statutes governing the practice of architecture. Further, Colorado statutes will supersede any City ordinance that is in conflict with state statutes governing the practice of architecture.

THIS MEMORANDUM IS AN INFORMAL OPINION OF THE AUTHORIZING ASSISTANT ATTORNEY GENERAL AND SHOULD NOT TO BE CONSTRUED TO BE A FORMAL OPINION OF THE ATTORNEY GENERAL.