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DAVID SIBLEY
STATE SENATOR
District 22

OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION

APR 04 2001

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CAPITOL:
P.O. BOX 12063
AUSTIN, TEXAS 78711
(512) 463-0122
TOLL-FREE: (877) 824-7031
FAX: (512) 475-3729

DISTRICT:
801 AUSTIN AVENUE
SUITE 1020
WACO, TEXAS 76701
(254) 756-0122
FAX: (254) 756-0123

200 FALO PINO STREET
WEATHERFORD, TEXAS 76086
(817) 594-3895
FAX: (817) 594-3898
TDD: 1-800-735-2989

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OPINION COMMITTEE

March 28, 2001

Honorable John Cornyn
Texas Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

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FILE # ML-41951-01
I.D. # 41951

RE: Request for an opinion concerning whether the terms "owners of taxable property" and "household users" in Section 43.076(b) of the Texas Local Government Code include business users of water and sanitary sewer utility service.

Dear Attorney General Cornyn:

Please accept this letter as my request for the Office of the Attorney General to provide an opinion regarding the above issue.

My request stems from a constituent inquiry that my colleague Senator Mike Jackson received last fall. The opinion request was brought to Senator Jackson by Bronwyn Zardeneta, who is the owner of Ernie's Restaurant & Bar in Pasadena, Texas.

Background

Section 43.076 of the Texas Local Government Code addresses the situation where a conservation and reclamation district ("district") does not provide water and sanitary sewer utility service to all users in its territory. The statute directs that for the part of the district for which it does not provide these services, the district must either begin providing these services or make certain payments to a municipality.

Section 43.076(a) states that in the case where the district is not providing services to all household users, it must begin providing services to household users. However, if a household user is receiving these services from a municipality, then the district must make payments to the municipality. Section 43.076(b) directs that these payments must be the lesser of either the cost to the municipality of providing these services or the total amount of taxes paid to the district by owners of taxable property within the district.



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The language in the statute has caused confusion in its implementation. Confusion exists as to what type of user the various provisions apply to. For example, Section 43.076(a) makes reference to "household users." However, the payments mentioned in Section 43.076(b) include taxes paid by "owners of taxable property within the district." Thus, a question exists as to whether these payments include taxes paid by both household users and business users within the district or taxes paid by only household users.

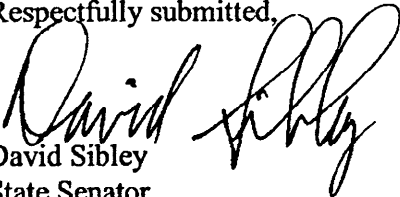
The City of Pasadena has passed a resolution that states that it will credit the utility accounts of the addresses that have paid taxes to Clear Lake City Water Authority ("CLCWA") which have been subsequently given back to the city pursuant to the statute. Although Bronwyn Zardeneta, who is a business user, has paid taxes to CLCWA, it has not made a payment in the amount of those taxes to the city. Therefore, she has been unable to receive a credit on the utility account for her business.

At issue is whether a business user is included in the definition of "owners of taxable property." Also at issue is whether the term "household user" in the statute is intended to include a business user such as Ms. Zardeneta.

Please do not hesitate to contact Robert Peeler in Senator Jackson's office or myself directly with any questions that may arise in preparing your opinion on this matter.

Respectfully submitted,

David Sibley
State Senator

A handwritten signature in black ink, appearing to read "David Sibley", written in a cursive style.