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RQ-0385-JC

May 17, 2001

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OPINION COMMITTEE

FILE # ML-42002-01  
I.D. # 42002

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

RE: The scope of a property owner's right of access under Section 25.195(a) of the Tax Code to appraisal information that is used in establishing the taxable appraised value of his property.

Dear General Cornyn:

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

**Background**

A private appraisal firm that does a substantial amount of business with appraisal districts in Texas is refusing to provide complete appraisals of electric utility property to the appraisal districts that it serves, providing instead a summary of the conclusions reached in the appraisals and the major economic assumptions used to arrive at the results. The owners of electric utility property in appraisal districts served by this firm have been denied access to the appraisals of their property performed by the firm, despite the fact that the results of those appraisals are relied on by the appraisal districts in setting the appraised value of their property on the district appraisal roles for ad valorem tax purposes.

Section 25.01 of the Tax Code authorizes an appraisal district to engage a private appraisal firm "to perform appraisal services for the district." It also states that "a contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and [that] such appraisals and supporting data shall be public records."



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Section 25.195(a) of the Tax Code provides that after a chief appraiser submits appraisal records to the appraisal review board, as required by Section 25.22(a) of the Tax Code, "a property owner . . . may inspect the appraisal records relating to property of the property owner, together with supporting data, schedules, and . . . any other material or information held by the chief appraiser, including material or information obtained under Section 22.27, that is obtained or used in making appraisals for the appraisal records relating to that property."

The appraisal firm defends its refusal to give complete appraisals of electric utility property to the appraisal districts that it contracts with on the grounds that Senate Bill 7, enacted by the 76<sup>th</sup> Legislature in 1999 to restructure the electric utility industry, requires that it protect "competitively sensitive information," and that it is doing so by withholding the complete appraisals from the appraisal districts and from property owners. While Senate Bill 7, by the enactment of Section 39.001 of the Utilities Code, articulates a general policy goal of ensuring "the confidentiality of competitively sensitive information" during the transition to competition in the electric utility industry, that policy was expressly imposed on the Public Utility Commission of Texas and not on appraisal districts or the private appraisal firms that they hire. The Tax Code was not amended by Senate Bill 7 or any other legislation to require appraisal districts, or the private appraisal firms engaged by them, to treat electric utility appraisals any differently than appraisals of other industrial property. Senate Bill 7 contained amendments to other provisions of the Tax Code, but none that affected property taxation.

The appraisal firm also defends its refusal on the grounds that a property owner's right of access to information concerning the appraisal of the owner's property is circumscribed by the limitation in Section 25.01(c) of the Tax Code, regarding what information must be made available by a private appraisal firm to an appraisal district. In taking this position, the firm ignores an Open Records Decision issued by your office, which states that Section 25.195 of the Tax Code grants to a property owner the "right of access to all materials used to determine the appraised value of his property." Tex. Atty. Gen. Op. ORD 500 at 5 (emphasis added). Any further doubt as to whether a property owner enjoys a special right of access to all information regarding the appraisal of his property should be dispelled by the fact that Section 25.195 was amended in 1997 to expressly state that the information a property owner is entitled to inspect includes "material or information obtained under Section 22.27 [a confidentiality provision], that is obtained or used in making appraisals for the appraisal records relating to [the property owner's] property."

#### **Issues Presented**

Because of the continued denial of access to appraisals of taxpayer property, several questions merit your opinion. Specifically, they are as follows:

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1. Does Section 39.001 of the Utilities Code, or any other statutory provision added or amended by Senate Bill 7, 76<sup>th</sup> Leg., 1999 Tex. Gen. Laws 2543, modify the statutory requirement that an appraisal firm must provide appraisals to the appraisal districts that it contracts with as required by Section 25.01(c) of the Tax Code or restrict the scope of a property owner's access to appraisal information regarding the owner's property as set forth in Section 25.195(a) of the Tax Code?

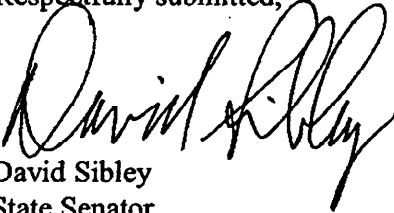
2. Is a property owner's access to appraisal information regarding the owner's property, as set forth in Section 25.195(a) of the Tax Code, circumscribed by Section 25.01(c) of the Tax Code which governs what information must be made available by a private appraisal firm to an appraisal district and which limits what constitutes supporting data?

3. Is a property owner entitled to copies of all appraisal material and information regarding the owner's property pursuant to Section 25.195(a) of the Tax Code?

Section 25.01(c) of the Tax Code expressly provides that property tax appraisals are public records. As such, any citizen can obtain copies of property tax appraisals for any property. It would eviscerate the goal of open government to conclude that a property owner is not entitled to copies of his own appraisal records or that his right of access to all materials used to determine the value of his property is abridged in any way.

Because of the continuing nature of this denial of access, I respectfully ask that you expedite the issuance of an opinion on the questions asked above. Thank you for your prompt consideration and review of the legal issues raised by this request.

Respectfully submitted,



David Sibley  
State Senator