

Texas General
Land Office



David Dewhurst
Commissioner

Stephen F. Austin Building

1700 North
Congress Avenue

Austin, Texas
78701-1495

512-463-5001

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OPINION COMMITTEE

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August 19, 2002

FILE # ML-42762-02

I.D. # 42762

RQ-0594-JC

Honorable John Cornyn
Attorney General of the State of Texas
209 West 14th Street
P.O. Box 12548
Austin, Texas 78711-2548

Re: Taxable status of foreclosed property under the Veterans Housing Assistance Program

Dear General Cornyn:

The Veterans Land Board (Board) assists Veterans in their purchase of land and homes. Under Chapter 161 of the Natural Resources Code, usually referred to as the Veterans Land Program, the Board purchases land and sells the land to the Veteran under an executory contract. In the Veterans Housing Assistance Program (VHAP) under the authority of Chapter 162 of the Natural Resources Code, the Board makes loans to Veterans to purchase a home or to make improvements to an existing home. These VHAP loans are secured by a mortgage under a Deed of Trust.

In the course of running both of these programs the Board will sometimes have to forfeit or foreclose on property and title will vest in the Board. Land forfeited under the Land Program is tax-exempt according to Op. Atty. Gen. 1989, No. JM-1085. No taxes accrue during the time between forfeiture and resale. The Board has not construed this opinion to extend to foreclosed property under VHAP. The constitutional and statutory provisions for the two programs are distinguishable, and the taxable status of the land foreclosed on under the VHAP program might be affected by the distinction.

The question respectfully presented for your consideration is:

Are foreclosed properties in the Veterans Housing Assistance Program tax exempt?

It is the position of the Veterans Land Board that land foreclosed under the VHAP program is tax-exempt. Foreclosed VHAP property is held

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by the Board for a public purpose so as to satisfy §11.11 of the Tax Code. The distinction between the two programs in the constitution and statute does not affect whether the property is held for a public purpose. I enclose a copy of a memorandum in support of this position by my legal staff.

The Board reviewed the matter at its April 24th meeting and agreed to present the question to your office. The issues raised by this request are a matter of public interest. Your assistance in resolving this matter would be greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "David Dewhurst". The signature is written in a cursive, slightly slanted style.

David Dewhurst
Land Commissioner/Chairman Veterans Land Board

DD/rg

Enclosures