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RQ-0313-GA

January 24, 2005

FILE # ML-44115-05

I.D. # 044115

The Honorable Greg Abbott
Attorney General for the State of Texas
Attorney General Opinion Division
300 West 15th Street, Suite 205
Austin, Texas 78711-2548

Via CMRRR #7002 2030 0006 3535 7519

RE: Request for Attorney General Opinion

ISSUE: Whether the Texas Department of Housing and Community Affairs is required to revoke a Statement of Ownership and Location when the statement is shown to have been obtained based on false or fraudulent information concerning the payment of ad valorem taxes.

Dear Attorney General Abbott:

My office respectfully requests an Attorney General's Opinion answering whether, through the provisions of Subtitle C, Chapter 1201, Section 1201.209 of the Texas Occupation Code or otherwise, the Texas Department of Housing and Community Affairs is required to revoke a Statement of Ownership and Location when the statement is shown to have been obtained based on false or fraudulent information concerning the payment of ad valorem taxes.

The issue presented in this request was brought to our office by the Hunt County Tax Office. The Tax Office has been losing extensive tax revenues as a result of mobile homes being removed from the County with delinquent taxes remaining unpaid. It has been alleged that finance companies who loan monies for the purchase of manufactured homes are circumventing the provisions of the Texas Property Tax Code requiring taxes to be paid prior to the acquisition of a permit to move the manufactured home by submitting false or fraudulent documentation to the Texas Department of Housing and Community Affairs indicating that no taxes are due.

Based on the false or fraudulent information, the Texas Department of Housing and Community Affairs transfers titles to the mobile homes. Once ownership is transferred on the title, the Tax Office's lien effective January 1 is extinguished and the debt becomes uncollectible.

Texas Occupation Code §1201.209 states that the Texas Department of Housing and Community Affairs (the "Department") may not suspend or revoke a statement of ownership and location (document of title) unless, among other things, the application for issuance of the statement of ownership and location (document of title) "contains a false or fraudulent statement . . ." The question is whether the Department is required to revoke the Statement when false or fraudulent documentation relating to payment of taxes is used to transfer title to a mobile home.

Although the language of the statute, on its face, does not appear mandatory, it would seem that the duties of the Department to the public support an argument that the Department is required to revoke a Statement of Ownership and Location when false or fraudulent documentation relating to taxes is used to obtain the statement. As indicated above, our office has been informed that significant tax dollars are being lost as a result of transfers of ownership of mobile homes when ad valorem taxes are due and owing. This is money that belongs to the public but is uncollectible unless the Department revokes the statement permitting the tax office to enforce its lien. Clearly, the Department has the power to revoke a statement of ownership and location. The question is whether the Department is required to revoke the statement when the statement was obtained by documents falsely and/or fraudulently indicating that there are no taxes owed on the property.

My office respectfully requests that the Attorney General's Staff prepare an Opinion and after careful research and reading of the statute opine on whether or not the Texas Department of Housing and Community Affairs is required to revoke a Statement of Ownership and Location when the statement is shown to have been obtained based on false or fraudulent information concerning the payment of ad valorem taxes. If your office wishes to have additional help in briefing or has other questions, please feel free to contact me directly.

Very truly yours,



Joel T. Hardman
Assistant Hunt County Attorney

Approved:



Joel D. Littlefield
Hunt County Attorney

cc: Barbara Wiggins, Hunt County Tax Assessor-Collector