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RQ-0471-GA

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OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of Texas
Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

FILE # ML-44706-06

I.D. # 44706

Dear General Abbott:

Pursuant to Sec. 402.042 Government Code, I respectfully request an opinion from you regarding certain provisions of Chapter 373A, Local Government Code enacted by the 79th Legislature in 2005.

Background

The City of Austin may create a homestead preservation district under Chapter 373A, Local Government Code. Creation of a district permits the City to designate land trusts to operate in the district. Loc. Gov't Code § 373A.101. Creation of the district also permits the City to create a homestead preservation reinvestment zone in the district or a land bank program. *Id.* §§ 373A.152, 373A.204.

Because the homestead preservation law is an entirely new statutory authority, there is concern about possible adverse legal effects on existing operations of land trusts that own land located within the possible boundaries of any new district and on the current operations of municipal programs if a district is created.

To my knowledge, the City Council of the City of Austin has not adopted a district or any administrative construction or interpretation of Chapter 373A, Local Gov. Code.

Questions of public interest:

1. If a municipality creates a homestead preservation district under Chapter 373A, Texas Local Government Code, and a community housing development organization or a housing finance corporation operates in that district, does the tax exemption in Section 373A.108 apply to all the real property owned by a community housing development organization or a housing finance corporation, including land trust property and other real property located both inside or outside the district?
2. May an ordinance creating a homestead preservation reinvestment zone under Section 373A.152(a) include a provision that establishes a termination date for the homestead preservation zone, and may a municipality and a county enter into an agreement under Section 373A.155(d) that requires the county to pay into the tax increment fund of the zone for a period exceeding one year without its right to reconsider its decision under Section 373A.152(f)?
3. If a homestead preservation reinvestment zone is created under Section 373A.152(a), Local Government Code, may the tax increment fund expend funds for public works or public improvements similar to those defined as "project costs" under Section 311.002(1)(A), Tax Code, or is the use of the fund under Section 373A.157, Local Government Code, restricted only to the purchase of real property, the construction or rehabilitation of housing units in the zone, and zone administrative expenses?
4. May a family's income-eligibility to receive a benefit from the homestead preservation reinvestment tax increment fund be determined in accordance with the U.S. Department of Housing and Urban Development's eligibility rules at 24 Code of Federal Regulations Part 5, and is the family's income-eligibility determination only required for the year in which the family receives the benefit or are annual re-certifications of income required over the 30-year affordability period under Section 373A.157(g)?

Please contact me should you have any questions or need further information. Thank you for your advice in this matter.

Sincerely,



Robert R. Puente, Chair
House Committee on Natural Resources