



Brazos River Authority

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July 30, 2007

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FILE # ML-45293-07  
I.D. # 45293

Hon. Greg Abbot  
Office of the Attorney General  
Opinions Committee  
P.O. Box 12548  
Austin, TX 78711-2548

OPINION COMMITTEE

RQ-0611-GA

Re: Request for an Opinion

Dear General Abbott:

The Brazos River Authority (the "BRA") owns substantial property surrounding Possum Kingdom Lake, and much of that property is subject to long-term residential leases to private individuals. Many of the residential lessees have held their leases for decades. In the past, the leases have reflected very low lease rates, and the BRA has recently begun a process of transitioning to lease rates that more accurately reflect current market value. Because of the low lease rates in the past, the transition to a current market value rate will result in rate increases for many lessees over time. Rate increases have a disproportionate adverse impact on lessees over the age of sixty-five (65), who are more likely to live on fixed incomes. In addition, many of the over-65 lessees have held their leases for decades, resulting in the benefit of stable occupancy and use of the property and administrative continuity for the BRA regarding those leases. The BRA is also concerned that if the over-65 lessees are forced to leave due to higher lease rates, their departure will be a loss to the Possum Kingdom community.

For these reasons, the BRA desires to minimize the adverse impact of the lease rate increases on lessees over 65. To this end, the BRA wishes to grant a ten percent (10%) discount off of current lease rates for lessees over 65 who would qualify for a homestead exemption, and also to freeze the discounted lease rate for such lessees on a going-forward basis. BRA's outside counsel has advised that such a discount or freeze would violate article III, section 52 of the Texas Constitution, as there is no specific amendment allowing such a discount or freeze. The BRA therefore respectfully asks the Attorney General to issue an opinion as to whether the BRA is authorized to give such a lease rate discount and lease rate freeze to lessees over 65 who qualify for a homestead exemption on their leased property at Possum Kingdom Lake. In particular, the BRA requests that the opinion address the question whether that discount or freeze would violate the provisions of article III, section 52 of the Texas Constitution.

Sincerely,

Steve Pena  
Presiding Officer  
Brazos River Authority

cc: Board members, Brazos River Authority