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JAN 27 2009

OPINION COMMITTEE



FILE # ML-45956-09

I.D. # 45987

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FIRST ASSISTANT DISTRICT ATTORNEY

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HEATHER HOLLUB

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25TH JUDICIAL DISTRICT OF TEXAS
GONZALES, GUADALUPE
AND LAVACA COUNTIES

FRANK ALLENGER
CHIEF INVESTIGATOR
DIANA BROADNAX
VICTIM-WITNESS COORDINATOR
MARY ANN MARTINEZ
VICTIM ADVOCATE

January 23, 2009

RQ-0780-GA

Attorney General of Texas
Ms. Nancy S. Fuller
P.O. Box 12548
Austin, Texas 78711-2548

Dear Ms. Fuller:

With reference to my letter dated January 5, 2009, requesting an opinion regarding the legality of continued leasing of office space for district officials by the Guadalupe County Commissioners, enclosed is the Brief you requested.

Please feel free to contact our office, if any additional information is required.

Sincerely,

A handwritten signature in cursive script that reads "Heather Hollub/cmm".

Heather Hollub
25th Judicial District Attorney

HH/cmm
Enclosures

I. FACTS

Guadalupe County owns a limited number of facilities that are suitable for housing county offices. As a result, the Guadalupe County Commissioners Court rents office space for the 2nd 25th Judicial District Judge, the Community Supervisions and Corrections Department (Adult Probation), and the 25th Judicial District Attorney. The County leases office space for two of these entities, the 25th Judicial District Attorney and the 2nd 25th Judicial District Judge, in the La Plaza Building located at 113 South River Street, which is directly across the street from the Guadalupe County Courthouse. The District Attorney has been housed in this location since approximately 1984, and the 2nd 25th Judicial District Judge's office has been in this building since 2005.

In 1991, Gerald Hollub purchased the La Plaza building. The County has continued to lease space for the District Attorney's Office in the building since that time. In addition, the County leased additional space from Mr. Hollub for the 2nd 25th Judicial District Judge's office in 2005. The leasing contracts for these offices were most recently renewed in December 2008.

Gerald Hollub married Heather Hollub in 2001. In November 2008, Heather Hollub became the District Attorney Elect for the 25th Judicial District. When Ms. Hollub was elected, the County Attorney raised concerns over the continued leasing of office space for the District Attorney's office in the La Plaza Building. Specifically, the County Attorney informed the Commissioners' Court that the continued leasing of said space would be a "violation of the public's trust." When asked by the County Judge for her opinion regarding the legality of the leasing contract, Ms. Hollub stated that in her opinion it was a legal and valid contract. This opinion was based on Ms. Hollub's

conversations with legal counsel at the Texas Association of Counties and her review of case law and prior Attorney General Opinions. Ms. Hollub provided these opinions and case law to the Commissioners Court. Ms. Hollub further informed the Court that she had no legal or ethical objections to the continued housing of the District Attorney's office in the La Plaza Building, because (1) the office has been located in the La Plaza Building since 1984, (2) suitable alternative space was not available, (3) the County is planning to relocate the District Attorney's Office into the Courthouse within the next five years, and (4) the leasing contract, based on case law and prior Attorney General opinions, is a valid, enforceable contract.

On December 9, 2008 the County Attorney strongly urged the Commissioners not to continue the lease, again alleging that it was a "violation of the public trust." The Commissioners voted 5-0 to renew the lease for the District Attorney's offices in Mr. Hollub's building. The Commissioners also pointed out that the question would become moot when the County completes renovations to the Courthouse.

On January 1, 2009, Heather Hollub was sworn in as the District Attorney for the 25th Judicial District. In light of the conflict between the legal opinions of the District Attorney and the County Attorney, the Guadalupe County Judge requested that an Attorney General's Opinion be sought to resolve the issue.

II. ISSUE

Is there a conflict of interest or a violation of public policy if an elected official, other than a member of the County Commissioners Court, continues to occupy office space leased by the County Commissioners Court in a building owned by the elected official's spouse?

III. BRIEF ANSWER

Opinions issued by the Texas Attorney General's Office and relevant case law indicate that a conflict of interest or a violation of public policy exists only if the elected official has the authority to vote on a contract which would provide a benefit to the official or the official's family. Under Section 41.107 of the Texas Government Code, the Commissioners Court of a county may furnish office space that is necessary to carry out the official duties of the prosecutor's office. Further, Section 292.001 of the Local Government Code provides the Commissioners Court of a county with the authority to lease space other than the courthouse for the housing of district offices. The Commissioners' Court is composed of the county judge and the county commissioners; the district attorney is not a member of the Court and has no authority to enter into contracts for office space.

In this instance, the Guadalupe County Commissioner's Court, on December 9, 2008, reviewed, approved, and entered into the lease with Mr. Hollub. The District Attorney at the time was Ms. Vicki Pattillo. Ms. Pattillo is not related to Mr. Hollub, she did not have a vote on the leasing contract, and she was not involved in the negotiations with Mr. Hollub. At the time the contract was executed, Heather Hollub was not an

elected official. Therefore, there is no conflict of interest or violation of public policy in this case for two reasons: (1) Ms. Hollub was not the District Attorney at the time the contract for the lease was executed, and (2) the office of the district attorney was not involved in the creation or execution of the contract. Moreover, there would be no conflict of interest or violation of public policy if the County Commissioners Court were to enter into another leasing contract with Mr. Hollub in the future, because Ms. Hollub has no authority to participate in a vote or decision to enter into such a contract.

IV. DISCUSSION

Public policy regarding conflicts of interest for local elected officials is governed by Chapter 171 of the Texas Local Government Code. Under that statute, a conflict of interest is present and a violation of public policy occurs when:

- (1) a local public official;
- (2) knowingly participates in a vote or decision;
- (3) on a matter involving a business entity or real property;
- (4) in which the official has a substantial interest; and
- (5) for which it is reasonably foreseeable that the action taken will have a special economic effect on the business entity or on the value of the property that is distinguishable from the effect on the public.

TEX. LOCAL GOVT. CODE § 171.004; *see also Dallas County Flood Control Dist. No. 1 v. Cross*, 815 S.W.2d 271, 278 (Tex. App. — Dallas 1991) (discussing the predecessor statute to Chapter 171).

In this situation, elements one, three, four and five are not at issue. The district attorney is a local public official; the lease between Mr. Hollub and Guadalupe County involves real property or a business entity; Ms. Hollub, by virtue of her marriage to Mr. Hollub, has a substantial interest in the real property; and Ms. Hollub receives an economic benefit, rental income, that is distinguishable from the effect on the public.

Element two, however, is not present in this case. Ms. Hollub did not participate or vote in the decision to enter into the leasing contract on behalf of the county. Furthermore, Ms. Hollub *cannot* participate or vote in such a contract on behalf of the county, as the district attorney does not have any authority to enter into a lease for office space.

Pursuant to section 41.107 of the Texas Government Code, "the commissioners court of the county or counties composing a district may furnish . . . office space . . . that [is] necessary to carry out the official duties of the prosecuting attorney's office and may pay the expenses incident to the operation of the office." Furthermore, "[t]he commissioners court of a county may . . . provide by other means, including a lease, . . . a building or rooms, other than the courthouse, for the housing of county or district offices . . ." TEX. LOCAL GOVT. CODE § 292.001. The commissioners court is composed of the county judge and the county commissioners. *Id.* § 81.001. The district attorney is not a member of the court.

The primary duties of the district attorney for the 25th Judicial District of Texas are contained in section 2.01 of the Texas Code of Criminal Procedure and section 43.112 of the Texas Government Code. The district attorney's primary responsibilities include the prosecution of criminal cases within the district attorney's district, for prosecuting

and responding to appeals within the district, for representing the State in habeas corpus proceedings in the district, and for representing the State in forfeiture proceedings in the district. The district attorney has authority to perform those tasks. The district attorney does *not* have authority to enter into contracts or leasing agreements for the use of property or office space.

In this case, the commissioners court for Guadalupe County contracted with Gerald Hollub for the lease of office space in the La Plaza Building to be used by the 25th Judicial District Attorney. As an initial matter, Heather Hollub was not the district attorney at the time the contract was executed. The district attorney at that time was Vicki Pattillo. Therefore, Ms. Hollub could not have participated in or voted on a matter on the County's behalf, as she had no authority to act for the County.¹ In addition, even if a conflict of interest was created when Ms. Hollub took office, such a conflict would not invalidate the contract. *See* Tex. Att'y Gen. Op. No. GA-0351 (2005) ("A conflict of interest arising after the contract was made does not invalidate it."). Thus, the current leasing agreement between Gerald Hollub and Guadalupe County is a valid contract, and it does not create any violations of public policy.

Furthermore, there is no conflict of interest involving Ms. Hollub and the leasing agreement between Mr. Hollub and the County. "[A]s a general proposition, a county official or employee may contract with the county for services or materials which are furnished by that county employee in his private capacity and which are separate and wholly unrelated to his official county duties." Tex. Att'y Gen. Op. No. JM-776 (1987) (quoting Tex. Att'y Gen. Op. No. JM-270 (1984)). Conflict of interest principles only

¹ It should also be noted that Ms. Pattillo did not participate in the negotiations for the contract, vote on the contract, participate in the decision on the contract, or otherwise have involvement in the contract.

“prevent public officials from contracting *on behalf of the state or a political subdivision* with a private entity which provides them a salary or other benefit.” Tex. Att’y Gen. Op. No. H-1309 (1978) (emphasis added); see Tex. Att’y Gen. Op. No. GA-0510 (2007) (“From the statute’s plain language, however, section 171.004 applies only to a local official who may participate in a vote or decision of the governmental entity that will result in a special economic effect on the official’s business entity;” “[T]he statutory disclosure and abstention requirements do not apply to a local public official who is not authorized to participate in any vote or decision of the local governing body that could have a special economic effect on the official’s business entity.”); Tex. Att’y Gen. Op. No. JM-310 (1985) (“[The conflict of interest rules do] not apply where the officer has no power to make or influence the making of the contract.”); see also Tex. Att’y Gen. Op. No. GA-0351 (2005) (“A contract is invalid under common law only if a public officer has or shares with others the authority to contract with an entity in which he is financially interested.”). The office space leased to Guadalupe County by Gerald Hollub was furnished in a private capacity and is wholly unrelated to Ms. Hollub’s official duties as the 25th Judicial District Attorney. As stated above, the 25th Judicial District attorney has no authority to enter into a contract or lease for the use of office space. Thus, there is no conflict of interest or violation of public policy due to the leasing agreement between Guadalupe County and Gerald Hollub.

For the same reasons, there will be no conflict of interest or violation of public policy should the Guadalupe County Commissioners Court choose to renew or renegotiate the lease with Mr. Hollub in the future. Ms. Hollub has no authority to participate in or vote on such a contract on behalf of the County. Therefore, should the

County choose to renew or renegotiate the lease with Mr. Hollub, no conflict of interest or violation of public policy would occur.

Finally, Ms. Hollub is not required by section 171.004 to file an affidavit stating the nature and extent of her interest in any contract involving the lease of the La Plaza Building to Guadalupe County. Because Ms. Hollub has no authority to vote on or make a decision regarding such a contract, section 171.004 is inapplicable to any lease contract between Gerald Hollub and the Guadalupe County Commissioners Court. *See* Tex. Att’y Gen. Op. No. GA-0510 (2007); Tex. Att’y Gen. Op. No. JM-776.

V. CONCLUSION

Heather Hollub was not the district attorney at the time the current leasing agreement between Gerald Hollub and the Guadalupe County Commissioners Court was executed. Now that Ms. Hollub is the 25th Judicial District Attorney, she “is not . . . a member of the county’s governing body and cannot contract for the county or vote on a matter pertaining to county business.” Tex. Att’y Gen. Op. No. JM-310 (1985). Because she “is not a member of the county’s governing body, [she] will not, in [her] official capacity, vote or decide on any such matter.” *Id.* Because she “cannot contract for the county . . . , no conflict arises under the doctrine of dual agency.” *Id.* Thus, the contract between the Guadalupe County Commissioners Court and Gerald Hollub creates no conflicts of interest or violations of public policy for Ms. Hollub.



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FRANK ALLENGER
CHIEF INVESTIGATOR
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VICTIM-WITNESS COORDINATOR
MARY ANN MARTINEZ
VICTIM ADVOCATE

Monday, January 05, 2009

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 787 11-2548

FILE # 9L-45956-09
I.D. # 45956

Re: Attorney General Opinion as to the continued leasing of office space for District Officials by the Guadalupe County Commissioners

Dear Attorney General Abbott,

I am writing to request your opinion on the following question:

Question

1) Is it legal for the County Commissioners to continue to lease office space for Offices for a District Judge from the 25th Judicial District and the newly elected District Attorney when one of the elected district official's spouse owns the property being leased by the County Commissioners?

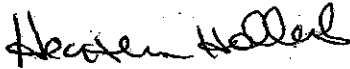
History

Guadalupe County does not have sufficient space for the elected District Officials and their staff and are in the process of remodeling in order to house all County and District offices on County owned property; however, at this time the Commissioners rent several spaces for multiple departments. The District Attorney for the 25th Judicial District has been located in leased offices across the street from the Guadalupe County Courthouse in the La Plaza Building for the last 25 years. In 2005, the Guadalupe County Commissioner's Court entered into a lease with Gerald Hollub the owner of the La Plaza Building to rent additional office space for the newly created 2nd 25th Judicial District, District Judge. Both leases are in line, if not lower than the local rental market. The lease was renewed in December of 2008, by a unanimous vote of the Commissioners Court. Mrs. Hollub, the building owner's wife, was sworn in as the District Attorney for the 25th Judicial District on January 1, 2009. The Guadalupe County Attorney submitted a letter to the Guadalupe County Judge and the Guadalupe County Commissioners

The Honorable Greg Abbot
Monday, January 5, 2009
Page 2

advising that continued leasing of office space from Gerald Hollub is problematic, may be viewed as self dealing, and a conflict of interest. *(See attached Kolb letter)*. Further, the County Attorney publicly attacked the contract approved by the Guadalupe County Commissioners *(see attached articles)*.

Sincerely,



Heather Hollub
District Attorney 25th Judicial District

Attachments: County Attorney Letter and related articles



ELIZABETH MURRAY-KOLB

Guadalupe County Attorney

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FAX (830) 379-9491

September 12, 2008

Honorable Judge Wiggins, Guadalupe County Judge
Honorable Commissioner Judy Cope
Honorable Commissioner Jim Wolverton
Honorable Commissioner Cesario Guadarrama
Honorable Commissioner Roger Baenziger

Re: Ethics Issues Related to District Attorney's Office located in the Hollub Building.

Dear Judge and Commissioners:

As Guadalupe County Attorney, I have the responsibility to alert the Commissioners Court of issues concerning actions taken or proposed to be taken by our county government that might violate the public trust.

I am writing to express my concerns about possible renegotiation of Guadalupe County's lease contract with Mr. and Mrs. Gerald Hollub. The property in question currently serves as the Guadalupe County office of the District Attorney for the 25th Judicial District. As you know, Mrs. Hollub is the Republican nominee for that office and because she is unopposed in the November 4, 2008 General Election, she will take office on January 1, 2009.

While the property has been purported as belonging only to Gerald Hollub, under Texas law, any income generated by this property is considered community property and thus any lease agreement entered into between the county and Gerald Hollub, would enrich Heather Hollub as well as her husband. While Guadalupe County has entered into lease agreements with the owners of this property for a number of years, it is because of the office that Ms. Hollub will assume at the first of the year that makes any new lease agreement problematic.

It is my understanding that the cost of relocating the District Attorney's to another location in order to mitigate any conflict of interest issues would be approximately \$8,000, an amount that apparently some members of the commissioner's court believe to be prohibitive. While no one in county government is more interested in protecting the interests of taxpayer's than I, I feel that I also have the responsibility to protect the public's trust. I have been assured that, if asked, the current District Attorney would cover the costs associated with the relocation of the office from the "other" line item within her existing budget. It is my understanding that there is approximately \$10,000 available with that line item, ample funds to cover the costs of an office move, thus protecting taxpayer funds, as well as avoiding any potential conflict of interest issues.

While I fully understand that the ultimate decision on this matter remains with the commissioner's court, as your legal counsel, I want to formally alert you to my concerns and to advise you against the entering into any contract that could undermine the public's trust. While this transaction might not be a technical violation of state law, it will most assuredly be viewed by many of our citizens as improper self-dealing. Our citizens expect their elected officials, especially those of us charged with enforcement of our laws, to hold themselves to a high standard of ethics. I hope that Mr. and Mrs. Hollub will see fit to reconsider their desire to continue to lease this property to Guadalupe County for use as the District Attorney's office, but should they choose not to do so, I certainly hope that the commissioner's court will accept Ms. Patillo's offer to cover the costs associated with the relocation of the office prior to Mrs. Hollub taking office on January 1.

Finally, it is an incorrect interpretation of state law to suggest that the District Attorney can enter into no contract of more than a year. Therefore, should the commissioner's court not heed my advice, I would strongly urge the court to require Mrs. Hollub to enter into her own lease agreement with her husband, just as she has done with previous leases with her predecessors, Judge Kirkendall and Vicki Patillo. Please note that minimal correction will not cure any conflict of interest issue.

Thank you for your careful consideration of this matter.

Sincerely,

Elizabeth Murray Kolb
Guadalupe County Attorney

County attorney says DA office deal 'smells'

By Ron Maloney
The Gazette-Enterprise

Published December 10, 2008

SEGUIN — Guadalupe County Attorney Elizabeth Murray-Kolb on Tuesday told county commissioners that incoming 25th Judicial District Attorney Heather Hollub's office should move to avoid a possible perception of a conflict of interest.

Commissioners listened to an impassioned argument by Murray-Kolb — but voted 5-0 to approve the lease.

Hollub's husband Gerald owns the building that has housed the district attorney's office since 1984.

Murray-Kolb's office investigates and prosecutes misdemeanor crimes and juvenile cases. But it also advises Commissioner's Court on legal and ethical issues, and County Judge Mike Wiggins sought Murray-Kolb's opinion on the matter back in August.

While Murray-Kolb stopped well short of alleging any wrongdoing, she said Hollub essentially renting from herself could erode the public's trust in local government and doesn't pass the "smell test."

Hollub defeated District Attorney Vicki Pattillo in the Republican Party primary election last March, and will assume office Jan. 1.

The lease on the second floor office in the La Plaza building located across South River Street from the county courthouse — prime real estate for any law office, including the county's — comes up early next year.

In the new agreement, Hollub's husband has asked for a rent hike — from about \$29,000 to \$38,000 or \$1 per square-foot — to offset increased costs for taxes, fuel and utilities, which Gerald Hollub pays and which are included in the lease agreement.

Wiggins said he believed the increase appeared to be a reasonable one in light of costs for similar space elsewhere downtown — which in most cases is leased without consideration of the utilities, which are borne by the lessee.

"It's no secret that taxes and utilities have gone up," Wiggins said.

Other property the county rents nearby goes for as much as \$1.25 per square-foot —

County attorney says DA office cost should not including the utilities, which the county pays.

To avoid any question of a conflict, commissioners decided to pull the lease for the district attorney's office out of its budget and amend the county's budget to reflect that.

Murray-Kolb, who acknowledged the office has been located in the building since former district attorney and now 2nd 25th Judicial District Judge W.C. Kirkendall took office in the early 1980s, questioned whether such an act went far enough.

"What is different this time is that the district attorney is married to the owner of the building," Murray-Kolb said. "Even though it may be considered separate property, any income from the property is split between the spouses, therefore this property will directly enrich an elected official. In my opinion, this is a conflict of interest and an ethical violation that I believe clearly violates the public trust."

When Hollub's husband acquired the building in 1992, the county had already rented the space for the district attorney's office for most of a decade.

Murray-Kolb noted that four of this state's district attorneys now rent office space from themselves, and all are attorneys for whom the public office is a part-time one conducted out of space in a private law practice. It also was once standard practice in this and many other counties for justices of the peace and similar officials to lease space in their homes, offices and even garages to do public business in rural places where no public buildings exist.

"We've gone far beyond that," Murray-Kolb told commissioners. "This may be technically legal, but this is the county's chief legal officer who is hanging here on a thread of what is 'technically' legal. While it may be, it smells to high heaven."

Murray-Kolb said she has taken heat for her stand, but added that when she first ran for office she promised to protect the public trust, and that's what she's doing now, she said.

"I believe I will lose this vote, but if I do, you're all still my friends and I still love you dearly," Murray-Kolb said. "But I believe the citizens of Guadalupe County will be willing to pay the moving costs and utilities for good government and to be able to trust in their elected officials that they do not have conflicts of interest."

Wiggins asked Murray-Kolb what she thought of Kirkendall renting from Hollub, and if any conflict existed there.

If it does, Murray-Kolb said, it pales in comparison to the situation Hollub will find herself in.

"I believe the person essentially paying themselves rent makes the difference here," Murray-Kolb said. "I think there's a quantum difference between me taking office and paying myself a rent check whether I go through you and ask you to write the check or not. It changes in a huge way, and I think it's a terrible precedent."

Precinct 3 Commissioner Jim Wolverton said he sees the lease as an agreement between the district attorney's office and therefore the county — not whoever happens to be in the office — and the property owner.

"It's been there since 1984," Wolverton said. "And we have a plan, within five years, to renovate the courthouse after we finish the Justice Center, and move the district attorney's office into there. We're really looking at about two years here. Is it worth the time and money involved moving something we already had budgeted no matter who won the election? This wouldn't have come up at all if Heather Hollub had lost the election."

Wolverton made a motion that the county approve the lease, which was seconded by Precinct 1 Commissioner Roger Baenziger.

"I'll add that we work as quickly as possible on the courthouse so this issue never comes up again," Wolverton said — an amendment Baenziger and Wiggins both agreed to.

For her part, Hollub said she did look into the legal and ethical questions about the lease when she decided to run for district attorney.

"I personally researched the law and I contacted attorneys with the Texas Ethics Commission, the State Bar of Texas, the Texas District and County Attorneys Association and the Texas Association of counties and it is legal and it is not an ethics violation," Hollub said. "In light of the fact that it is a lawful transaction, it is not necessary to waste taxpayer funds on a move which would entail moving security, computer and telephone systems, only to move again when the courthouse is ready for the district attorney's office."

Wiggins said he agreed with Wolverton that the office is leased to the county and not to the individual who holds the office.

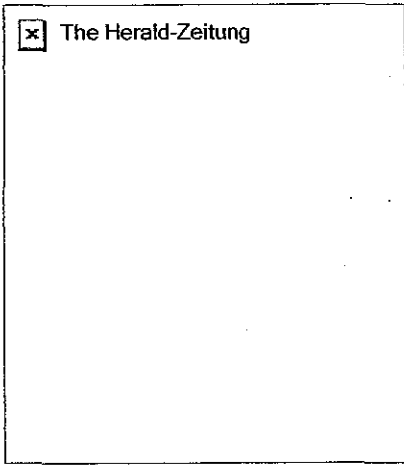
"I truly understand and appreciate Elizabeth's concerns, and I do recognize the points she brought up," Wiggins said. "I appreciate her coming forward and addressing the court."

The situation will be a temporary one, Wiggins said, lasting until the district attorney's office is moved into the courthouse.

At that point, there's a 90-day notification clause that allows the county — or Gerald Hollub — to end the lease.

"Even though the lease is going up, it's still cheaper that whatever else we could do in terms of relocating the office," Wiggins said.

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Guadalupe to pay DA's spouse for office

By Chris Cobb
The Herald-Zeitung

Published December 10, 2008

Guadalupe County will be paying rent to its district attorney's husband when the new DA takes office in January.

In an odd circumstance, the building that currently houses the Seguin office of the district attorney is owned by Gerald Hollub — who's married to newly elected 25th Judicial District Attorney Heather Hollub.

The lease on the downtown Seguin building was renewed Tuesday by Guadalupe County commissioners despite an impassioned speech from its county attorney alleging that it would be a "clear conflict of interest" to keep the office where it has been since 1984.

"In my opinion, this is a blatant violation of the public's trust," Guadalupe County Attorney Elizabeth Murray-Kolb told commissioners.

"It's wrong — it stinks, and it's the appearance of evil," she said.

Hollub defeated incumbent Vicki Pattillo in the March primary election to win the office.

Her husband has owned the building at 113 S. River St. and has been leasing the space to Guadalupe County since 1992.

The DA-elect said she researched the potential issue prior to the election and found nothing illegal about leasing the space to, essentially, herself.

"I think it's ridiculous," Hollub said of Murray-Kolb's demand that the office be

moved to a different location. "It's a legal contract. While (Murray-Kolb) she keeps saying it's wrong, she doesn't cite any case law or provide any evidence whatsoever as to why it might be."

Hollub said a number of DAs across the state are in similar circumstances and that the cost of relocation would be an unnecessary expense to taxpayers.

The new terms of the two-year lease approved by commissioners raised the rent from just less than \$30,000 a year to more than \$38,000. Hollub said that amounts to \$1 per square foot, which she said is still less expensive than other available spaces downtown.

With the DA's Office preparing to move into space inside a remodeled Guadalupe County Courthouse within the next three to five years, commissioners felt it would not be cost-effective to relocate the DA's Office now.

"Is it worth the time and effort to move for something we already had budgeted for, regardless of who's in office?" Commissioner Jim Wolverton asked during open session.

The new lease was unanimously approved.

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Letters to the Editor

Dear Editor:

Some eight years ago, during my first campaign for Guadalupe County Attorney, I promised voters that, when elected, I would work diligently to protect both the public's safety and the public trust. I have always worked hard to honor that commitment even when doing so was unpleasant or unpopular. This week, I addressed members of the commissioners court in regards to my serious concerns about the county's proposed lease of office space owned by the District Attorney-Elect and her husband to house the District Attorney's office. I raised these concerns because I believe the lease agreement, which has now been unanimously approved by the commissioners court, does in fact violate public trust.

We find ourselves at a time when our newspapers and television sets are filled with reports of public officials engaged in self dealing, such as the Governor of Illinois who was recently arrested and charged with crimes for doing so. I believe it is important, now more than ever, for our public officials to hold themselves to the highest standards of ethical conduct and to avoid even the hint of impropriety. That is why I am so concerned about this proposed lease agreement, and why I, in my official capacity as their chief legal adviser, have strongly advised the commissioners court from entering into such an agreement. In making my presentation to the commissioners court, I made the following observations:

- 1.) The District Attorney's Office can be moved at no expense to the taxpayers. In September, when I was first asked by commissioners about the propriety of the proposed lease arrangement, I informed them that the current District Attorney, if asked, would provide the funds for the relocation of District Attorney's office from the District Attorney's special fund.
- 2.) The current DA's office has a phone system that was given to the office at no charge and must be replaced regardless of whether the office is moved or not.
- 3.) The surveillance system in the DA's office can be relocated and will cost taxpayers nothing to move.
- 4.) Only four District Attorneys out of 300 in the State of Texas pay themselves rent and all are part-time DAs who use a part of their private law offices for DA business. Our situation here is different in that the District Attorney in Guadalupe County is a full-time position and has a large staff.
- 5.) There are numerous other properties available in close proximity to the courthouse that can be leased for the same amount of money or less per square foot so that the county is not in a position of leasing DA office space from the

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District Attorney-Elect or her immediate family.

6.) Any leasehold improvements made with public monies to the property owned by the District Attorney-Elect and her immediate family, including making the property ADA complaint, would benefit them personally and add value to their property. It is unreasonable to believe that no improvements will be made to the District Attorney's office during the entire length of the proposed lease period. It is a violation of law for public funds to be used for private purposes. Leasing a property for the District Attorney's office not owned by the District Attorney-Elect or her husband would allow the county to avoid this serious potential problem.

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It is my belief, that if executed, this lease contract constitutes a clear and compelling conflict of interest that provides no additional tax savings to citizens, yet will, in fact, provide personal financial benefit to the District Attorney-Elect and her immediate family.

No elected official or their family should benefit financially because of their public office other than the compensation they receive as salary. Doing so not only violates the public's trust, it also serves to undermine our faith in government and further opens the door to greed and corruption.

Elizabeth Murray-Kolb,
Guadalupe County Attorney

Dear Editor:

18-year-olds usually assume they're 10 feet tall and bulletproof, thus, invincible. However, if an 18-year-old has biology with Dr. B, that idea would be shaken (it was for me). He said the minute you're born, you start to die. John Donne said about death: "Soonest our best men with me do go." (like Jesus, Bing, Robert, Estella, etc.) This is the Christmas season. Why would I say anything about death? As the saying goes, "Think outside the box." There's a bigger picture here. Christmas is the reason I dread death. It's the reason I can enjoy life too, even when I get the glass half empty. I was taught death is more than a part of life. It's a servant to usher me to bigger and better. Christmas if every day, if you will.

Nothing has my father so riveted to the television as bull riding. To me, it's insane one would deliberately anger man or beast. I may not dread death, but that seems to ask it to supper, and that I don't do. One rider said he wasn't afraid of dying, but of losing. Maybe that sport isn't so contrary to my thinking after all. I, too, am not afraid of dying but of losing my faith in God, etc. Otherwise, I'd be more intolerant, impatient, sad, suspicious, etc. At 94, my father asks if he'll make 100. That's not for me. Don't misunderstand. Life is fine. It could be so much worse. It's just if I'm offered chopped steak or filet mignon, I'm taking filet every time. Many have died recently, or soon will die. That's why, too, I'm saying something about death at Christmastime. It will be impossible for some to say – even think – Merry Christmas. I ache for them! My mother has been gone three and a half years and without fail, I think of her every day, all day. Yet as painful as her absence is, I can still say and think Merry Christmas. You see, God is in my thoughts before my sadness. When I do that, I remember his birth (Christmas) is joy/hope. Though he was born to die, that death, too would eventually bring joy.