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OPEN RECORDS DIVISION

FILE # ML-46733-11

D. # 46733

RQ-0966-GA

April 14, 2011

The Honorable Greg Abbott
Attorney General, State of Texas
P.O. Box 12548
Austin, Texas 78711

Re: Request for Attorney General Opinion

Dear Attorney General Abbott:

The Housing Authority of the City of Laredo (the "LHA"), a public organization in my district organized pursuant to Texas Local Government Code §§ 392.001 *et seq.*, has asked me to respectfully submit this request for an Attorney General Opinion regarding the operation of Texas Local Government Code §392.005(b) as it applies to a public housing authority.

Specifically, I am requesting an opinion from your office regarding whether Texas Local Government Code §392.005(b) requires a public housing authority to reimburse a municipality, county, or political subdivision for furnishing improvements, services, or facilities for a housing project, in lieu of paying taxes or special assessments to a municipality, county, or political subdivision. A "housing project" is defined below.

Section 392.005(a) of the Texas Local Government Code provides that the property of a housing authority is tax exempt. The LHA and the LHA's property are exempt from all taxes and special assessments of a municipality, a county, another political subdivision, or the state. Certain political subdivisions within Laredo, Webb County, Texas are of the belief and opinion that public housing authorities are *required* to reimburse municipalities, counties, or political subdivisions for furnishing improvements, services, or facilities for a housing project, in lieu of paying taxes or special assessments. By way of examples, (i) a school district argues that since they provide educational facilities to students, some of whom are housing project residents, public housing authorities are required to reimburse them for such facilities, and (ii) the county is of the position that since they provide a jail, probation services and juvenile detention facilities for public housing project residents, housing authorities are required to reimburse them for such services. The LHA disagrees.

The LHA contends that Texas Local Government Code §392.005(b) does not require a public housing authority to reimburse in payments to a municipality, county, or political subdivision for furnishing improvements, services, or political subdivision for a housing project. Instead, the LHA contends the Texas Local Government Code §392.005(b) provides a public housing authority with the discretion to do so. In this regard, a public housing authority *may* agree to reimburse a municipality, county, or political subdivision for furnishing improvements, services, or facilities for a housing project, but only if the municipality, county, or political subdivision furnishes improvements, services, or facilities that specifically benefit a housing project.

Texas Local Government § 392.005(b) provides:

(b) If a municipality, county, or political subdivision furnishes improvements, services, or facilities for a housing project, an authority may, in lieu of paying taxes or special assessments, agree to reimburse in payments to the municipality, county, or political subdivision an amount not greater than the estimated cost to the municipality, county, or political subdivision for the improvements, services, or facilities.

Texas Local Government Code § 392.002(6) defines a “housing project” as follows:

- (6) “Housing project” means a work or other undertaking to:
- (A) demolish, clear, or remove buildings from a slum area, including a work or other undertaking to adapt an area for use as a park, for another recreational or community purpose, or for any other public purpose;
 - (B) provides decent, safe, and sanitary urban or rural housing for persons of low-income, including buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, and parks, or for other purposes, including site preparation, gardening, administrative, community, health, recreational, educational, or welfare purposes;
 - (C) accomplish a combination of the purposes described by Paragraphs (A) and (B); or
 - (D) plan buildings and other improvements, acquire property, demolish structures, construct, reconstruct, alter, and repair improvements, and perform other related work.

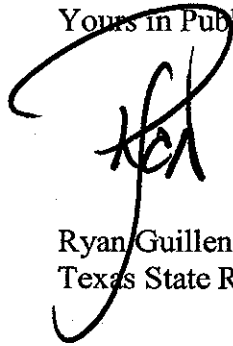
The statute is clear and unambiguous. The statute’s use of the word “may” makes it clear that the legislature did not intend to require public housing authorities reimburse political subdivisions for furnishing improvements, services, or facilities for a housing project. Instead, public housing authorities have the discretion to reimburse these entities for furnishing improvements, services, or facilities that specifically benefit a housing project.

In furtherance of its belief and opinion, the LHA has entered and will enter into cooperation agreements with political subdivisions to reimburse them for furnishing improvements, services, or facilities that specifically benefit housing projects.

Based upon the foregoing, I, on behalf of the LHA, request that the Texas Attorney General issue an opinion with regard to the question presented.

Thank you for your attention to this matter and please advise if your office requires additional information.

Yours in Public Service,

A handwritten signature in black ink, appearing to read 'R. Guillen', written over a large, stylized flourish that loops around the text.

Ryan Guillen
Texas State Representative