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FILE # ML-47059-12
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RQ-1063-GA

May 23, 2012

VIA LONE STAR OVERNIGHT

Honorable Greg Abbott
Attorney General of Texas
Open Records Division
209 W. 14th Street, 6th Floor
Austin, Texas 78701

Re: Request for Attorney General Opinion regarding whether one governmental entity can impose penalties and interest accrued on ad valorem taxes on another tax exempt governmental entity

Dear Mr. Abbott:

This is a request for an opinion regarding whether a tax-exempt governmental entity is legally obligated to pay penalties and interest on accrued ad valorem taxes on property it purchases for a public purpose. The current situation in Webb County requires an opinion on this issue as the County Attorney and County Auditor are not willing to pay penalties and interest on accrued delinquent ad valorem taxes, on property Webb County purchased some time ago. Accordingly,

1. Can penalties and interest be imposed as fees which accrued on a delinquent ad valorem tax balance, on a tax-exempt governmental entity?
2. Is Webb County, the purchaser of real property, in the same position as any other taxpayer or does its tax-exempt status relieve it of any obligation to pay penalties and interest owed as ad valorem delinquent taxes on the property it purchased?
3. Is a "tax-exempt" status automatically triggered on the day of closing, when Webb County acquired the property, thereby relieving Webb County from paying penalties and interest that accrued after it purchased the property?

4. If one tax-exempt governmental entity can charge another tax-exempt governmental entity, penalties and interest, based on delinquent ad valorem taxes, what constitutional or statutory authority allows them to do this?

FACTUAL BACKGROUND

Webb County purchased three separate properties of which the amount owed in delinquent ad valorem taxes, including penalties and interest is in dispute.

On August 15, 2001, Webb County purchased real property located at 805 Grant in Laredo, Texas, via a Warranty Deed from Dagoberto Rodriguez. The Settlement Statement indicates the ad valorem taxes were pro-rated through the date of closing, so Webb County received a credit for the base taxes from January 1, 2001 through August 15, 2001. The base taxes owed to Laredo Community College is \$73.38. The base taxes owed to Laredo Independent School District is \$482.97. Webb County does not dispute it owes this base tax, since it received a tax credit. It does dispute paying penalties and interests imposed after the closing, since it owns the property and acquired a tax-exempt status. This property is currently being used as a museum and is devoted exclusively to the use and benefit of the public. It has never been used for commercial purposes nor has Webb County ever received a profit for the use of this property.

On September 25, 2001, Webb County purchased real property located at 801 Grant in Laredo, Texas, via a Warranty Deed from Juan Cantu and Octavio Guajardo. The Settlement Statement indicates that Webb County received a credit on the purchase price. The base taxes owed to Laredo Community College is \$136.72. The base taxes owed to Laredo Independent School District is \$923.25. Webb County does not dispute it owes this base tax, since it received a tax credit. It does dispute paying penalties and interest imposed after closing, since it owns the property and acquired a tax-exempt status. This property is currently being used as a museum and is devoted exclusively to the use and benefit of the public. It has never been used for commercial purposes nor has Webb County ever received a profit from the use of this property.

On April 4, 2007, Webb County purchased real property located at 915 Zaragoza in Laredo, Texas. The base taxes owed to Laredo Community College from January 1, 2007 through April 4, 2007, is \$302.08. The base taxes owed to Laredo Independent School District is \$1,732.02. Webb County does not dispute it owes this base tax but does dispute paying penalties and interest imposed after closing, since it owns the property and acquired a tax-exempt status. This property is currently being used as a downtown college campus under the Texas A&M International University System, for some of its academic programs. This property has never been used for commercial purposes nor has Webb County ever received a profit from the use of this property.

LEGAL AUTHORITY

Article VIII, Section 2 of the Texas Constitution provides that the legislature may, by general laws, exempt from taxation public property used for public purposes.

Article XI, Section 9 of the Texas Constitution provides that the property of counties, cities and towns, owned and held only for public purposes, such as public buildings and the sites therefore...and all property devoted exclusively to the use and benefit of the public shall be exempt from...taxation.

Section 11.11 of the Tax Code sets forth the following:
Section 11.11 Public Property:

- (a) Except as provided by Subsections (b) and (c) of this section, property owned by this state or a political subdivision of this state is exempt from taxation if the property is used for public purposes.

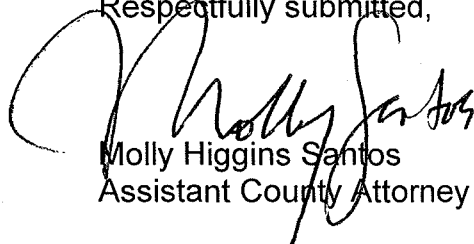
Webb County, is a political subdivision and the three (3) properties are used for public purposes.

REQUEST FOR OPINION

In sum, since Webb County is a political subdivision and qualifies for exemption from ad valorem taxation, does it lose its tax-exempt status with regards to penalties and interest accrued on a delinquent ad valorem tax balance, merely by delaying in paying a base tax received as a credit, at the time of closing, when it acquired the property?

Thank you, in advance for your attention to this matter. If you have any questions, or if you require additional information, please do not hesitate to call.

Respectfully submitted,



Molly Higgins Santos
Assistant County Attorney

MHS:oms

cc: Leo Flores
Webb County Auditor
1110 Washington, Suite 201
Laredo, Texas 78040