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August 18, 2020

Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711

Via Email: opinion.committee@oag.texas.gov

RE: Whether there is a conflict of interest when a City Council member of a home rule city votes to waive penalties and interest for delinquent property taxes accrued by an unrelated person when requested by the Tax Assessor Collector whom the City Council member is married.

Dear Sir or Madam:

This issue was presented to me by Mr. Michael Getz of the Beaumont City Council. I am now seeking the opinion of the Office of the Attorney General as to this matter.

Mr. Getz is on the Beaumont City Council. The "question arises regarding whether a conflict of interest exists when a City Council member of a home rule city participates in a vote to waive penalties and interest for delinquent property taxes accrued by an unrelated person or entity when the home rule city is requested to do so by the County Tax Assessor-Collector, to whom the City Council member is married, if the vote by the City Council member does not have a special economic effect on the County that would be distinguishable from the effect on the public.

Allison Nathan Getz is the duly elected Tax-Assessor Collector of Jefferson County, Texas. Her husband, Michael Getz, is the duly elected City Council member for the City of Beaumont, Texas, Ward 2.

The Jefferson County Central Appraisal District is charged with determining the appraised taxable value for property owners in Jefferson County, Texas. Once the appraised value is set, the Central Appraisal District forwards this information to the Jefferson County Tax Assessor, Allison Nathan Getz, to prepare and send out tax statements for the various entities in Jefferson County to the property owners.

Occasionally, the Central Appraisal District will provide an incorrect mailing address to

the Tax Assessor which may result in the property owner not receiving their tax statement before the payment deadline. When that happens, penalties and interest accrue. If the property owner can show that an act or omission of an employee of the Central Appraisal District caused the taxpayer to fail to pay their property taxes before they became delinquent (and the taxpayer pays the tax bill within 21 days of discovering the delinquency), then the property owner can request that the penalties and interest be waived. See Section 33.011 of the Texas Property Code.

In this instance, two property owners sought to have penalties and interest waived because they did not timely receive their tax statements. They subsequently paid their tax bills within 21 days of becoming aware of the delinquency. On June 30, 2020, the Jefferson County Commissioners' Court approved the waiver of the penalties and interest. Subsequently, on July 7, 2020, the Jefferson County Tax Assessor sent a letter to the City of Beaumont providing information about the two subject accounts and requesting that the City Council take formal action to ratify and approve the waiver of the penalties and interest.

The items requesting that the City Council of Beaumont, Texas take formal action to waive the penalties and interest for the two property owners in question were placed as items "L" and "M" on the consent agenda for the meeting of July 14, 2020. After a motion was obtained to approve the consent agenda, but before a second or a vote could be taken, the Beaumont City Attorney interrupted the proceedings and proceeded to announce that he 'would think Councilmember Getz would have a conflict on those two items'. The Mayor inquired as to what Councilmember Getz wanted to do and he responded that he did not believe he had a conflict and he proceeded to vote to approve the consent agenda which was unanimously approved by the City Council.

However, since this issue has been raised by the Beaumont City Attorney and is likely to occur again in the future...guidance is needed from your office as to whether or not a conflict exists that should require a Council member to recuse their self from voting to waive penalties and interest for a property owner who has chosen to avail themselves of Section 33.011 of the Texas Property Code, merely because he happens to be married to the Tax Assessor Collector."

Mr. Getz mentions in his letter, which is attached to this request, that Chapter 171 of the Texas Local Government Code regarding conflict of interest of "officers of municipalities" directs that an officer of a municipality should abstain from participation (voting) on the matter if "the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public."

"As the elected Tax Assessor-Collector, Allison Nathan Getz receives a salary from Jefferson County, which could arguably be considered a "business entity" under Section 171.001 (2). Since the funds received by Allison Getz amount to more than 10 percent of her gross income under Section 171.001 (2), she would be considered as having a substantial interest in Jefferson County. And because she is married to Council member Michael Getz, he would also be considered as having a substantial interest in Jefferson County under Section 171.002(c). However, it does not appear that Council member Getz's vote on this issue would have a special economic effect on Jefferson County that would be distinguishable from the effect on the public."

For these reasons, an opinion on this matter is requested to determine whether a conflict exists or not. I look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Wortham". The signature is fluid and cursive, with a long horizontal stroke at the end.

BOB WORTHAM
Jefferson County Criminal District Attorney

KMK/Enclosures



City of Beaumont

July 28, 2020

Dear General Paxton:

A question arises regarding whether a conflict of interest exists when a City Council member of a home rule city participates in a vote to waive penalties and interest for delinquent property taxes accrued by an unrelated person or entity when the home rule city is requested to do so by the County Tax Assessor-Collector, to whom the City Council member is married, if the vote by the City Council member does not have a special economic effect on the County that would be distinguishable from the effect on the public.

Allison Nathan Getz is the duly elected Tax-Assessor Collector of Jefferson County, Texas. Her husband, Michael Getz, is the duly elected City Council member for the City of Beaumont, Texas, Ward 2.

The Jefferson County Central Appraisal District is charged with determining the appraised taxable value for property owners in Jefferson County, Texas. Once the appraised value is set, the Central Appraisal District forwards this information to the Jefferson County Tax Assessor, Allison Nathan Getz, to prepare and send out tax statements for the various entities in Jefferson County to the property owners.

Occasionally, the Central Appraisal District will provide an incorrect mailing address to the Tax Assessor which may result in the property owner not receiving their tax statement before the payment deadline. When that happens, penalties and interest accrue. If the property owner can show that an act or omission of an employee of the Central Appraisal District caused the taxpayer to fail to pay their property taxes before they became delinquent (and the taxpayer pays the tax bill within 21 days of discovering the delinquency), then the property owner can request that the penalties and interest be waived. See, Section 33.011 of the State Property Tax Code.

In this instance, two property owners sought to have penalties and interest waived because they did not timely receive their tax statements. They subsequently paid their tax bills within 21 days of becoming aware of the delinquency. On June 30, 2020, the Jefferson County Commissioner's Court approved the waiver of the penalties and interest. Subsequently, on July 7, 2020, the Jefferson County Tax Assessor sent a letter to the City of Beaumont providing information about the two subject accounts and requesting that the City Council take formal action to ratify and approve of the waiver of the penalties and interest.

The items requesting that the City Council of Beaumont, Texas take formal action to waive the penalties and interest for the two property owners in question were placed as items "L" and "M" on the consent agenda for the meeting of July 14, 2020. After a motion was obtained to approve the consent agenda, but before a second or a vote could be taken, the Beaumont City Attorney interrupted the proceedings and proceeded to announce that he "would think Councilmember Getz would have a conflict on those two items". The Mayor inquired as to what Councilmember Getz wanted to do and he responded that he did not believe he had a conflict and he proceeded to vote to approve the consent agenda which was unanimously approved by the City Council.

However, since this issue has been raised by the Beaumont City Attorney and is likely to occur again in the future, I believe guidance is needed from your office as to whether or not a conflict exists that should require a Council member to recuse their self from voting to waive penalties and interest for a property owner who has chosen to avail themselves of Section 33.011 of the State Property Tax Code merely because they happen to be married to the Tax Assessor Collector. I have reviewed Chapter 171 of the Texas Local Government Code, copied below, regarding conflict of interest of "officers of municipalities". The relevant language, I believe, is in Section 171.004 which directs that an officer of a municipality should abstain from participation (voting) on the matter if:

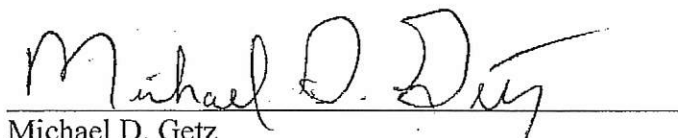
"the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public"

As the elected Tax Assessor-Collector, Allison Nathan Getz receives a salary from Jefferson County, which could arguably be considered a "business entity" under Section 171.001 (2). Since the funds received by Allison Getz amount to more than 10 percent of her gross income under Section 171.002 (2), she would be considered as having a substantial interest in Jefferson County. And because she is married to Council member Michael Getz, he would also be considered as having a substantial interest in Jefferson County under Section 171.002 (c). However, it does not appear that Council member Getz's vote on this issue would have a special economic effect on Jefferson County that would be distinguishable from the effect on the public.

Video of the Council meeting is available as is any of the necessary background correspondence between the office of the Jefferson County Tax Assessor Collector and the City of Beaumont.

Thank you so much.

Sincerely yours,



Michael D. Getz
City Council Member, Ward 2
Beaumont, Texas