



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

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ATTORNEY GENERAL

June 13, 1939

Mr. L. D. Ratliff, Jr.
County Attorney
Dickens County
Spur, Texas

Dear Sir:

Opinion No. 0-895

Re: The meaning of the terms
'actual value' and 'actual
cash value', as set out
and specified in Article
7166, Revised Civil Statu-
tes of Texas, 1925.

This will acknowledge receipt of your letter of
May 26, 1939, from which communication we quote as follows:

'Article 7166, V.A.C.S. of Texas, among
other things, provides, 'Every shareholder
of said bank shall, in the city or town
where said bank is located, render at their
actual value to the tax assessor all shares
owned by him in such bank-----Each share in
such bank shall be taxed only for the dif-
ference between its actual cash value and
the proportionate amount per share at which
its real estate is assessed.' I have been
requested to submit to you the following
for your opinion.

'Do the terms 'actual value' and 'actual
cash value' as used in the above statute have
the same meaning?

'What is the meaning of the terms 'act-
ual value' and 'actual cash value' as used in
the above statute?

'How do you arrive at the 'actual value'
or 'actual cash value' of a share mentioned
in said article?

"Do the terms 'actual value and 'actual cash value' as used in the above statute have reference to the amount which a share would bring on the open market or does such statute and the terms therein used have reference to what is termed the 'book value', arrived at by the method set out in 6 Texas Jurisprudence, pages 347 and 348, paragraph 206?"

The object of Article 7165 of the Revised Civil Statutes of Texas of 1925 is to furnish the data by which to arrive at the proper valuation of shares of stock. 6 Tex. Jur. 348.

Article 7166, R. C. S. of Texas, provides for the rendering of real estate held by the bank, and then provides for the rendition of "shares of stock" by the "shareholder", and the same shall be rendered at "their actual value".

We believe that when the correct answer has been made to the following proposition, the whole of the request made by you will be answered. The question being:

"Do the terms 'actual value' and 'actual cash value' as used in the above statute have reference to the amount which a share would bring on the open market?"

This question has been directly answered by the Supreme Court of the United States, wherein the Court said:

"The phrases 'salable value', 'actual value', 'cash value', and others used in the directions to assessing officers, all mean the same thing, and are designed to effect the same purpose."

Cummings v. Merchants Nat'l Bank of Toledo, 101 U.S.p. 903.

The Supreme Court of Alabama in the case of State v. Woodward, found in 93 So. p. 826, makes the following statement:

"Cash value, that is, what the property would sell for (for) cash by a vender, who wanted to sell, purchased by the purchaser who wanted to purchase the property for a cash consideration."

This court further states: "The actual cash value, then, is the fair or reasonable cash price for which the property can be sold in the market." 1 Words and Phrases p. 152, citing numerous cases, among them, Birmingham Fire Ins. Co. v. Tolliver, 18 N. E. 804.

"The expression 'actual value', 'market value' and 'market price' when applied to any article means the same thing. They mean the price or value of the article established or shown by sale, public or private, in the way of ordinary business." Sacramento Southern Ry. v. Heilbron, 104 Pac. 879.

"The best test of actual value is a sale on the market under circumstances calculated to elicit full and free bidding by interested purchasers." Francis v. Million, 80 S.W. 486, by the Supreme Court of Kentucky.

"It is well established that the term 'value' as used in the Constitution, means the reasonable cash market value." Roland v. City of Tyler, Com. of App. of Texas, Sec. 2, 5 S. W. (2)756.

We therefore hold that the term "actual value" and the term "actual cash value" mean the same thing, and it is the amount a share of stock would bring on the open market when offered by a person desirous of selling for cash to a person then able, ready and willing to purchase for cash, and that the statute has no reference otherwise.

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY  George S. Berry
Assistant

GSB-MR

APPROVED:


ATTORNEY GENERAL OF TEXAS

