



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

MARCH 14, 1955

Hon. J. Earl Rudder
Commissioner, General Land Office
Austin, Texas

Letter Opinion MS-184

Re: Authority of the Veterans'
Land Board to contract with
a Water Control and Improve-
ment District.

Dear Mr. Rudder:

You have requested our opinion as to whether or not the Veterans' Land Board has the authority to enter into a contract with a water control and improvement district, whereby lands purchased for a veteran through the program shall become eligible to participate in the privileges to be derived therefrom but also must bear the burden of their prorata share of any indebtedness incurred.

In reference to water control and improvement districts, Article 7880-55, Vernon's Civil Statutes, provides:

"The tax assessor and collector shall make an assessment of all the taxable property in his district. The property subject to taxation in a district shall be determined by and governed by the laws of this State providing for taxation for State and county purposes, and all such laws of the State shall apply thereto except as herein otherwise provided."

Article 7880-75, V.C.S., provides:

"Land may be added to a district and

become a part thereof upon petition of the owner thereof in the following manner: the owner of the land shall file with the board of directors a petition praying that the lands described be added to and become a part of the established district. Said petition shall describe the land by metes and bounds and be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the directors and may be granted and said land added to the district if same is considered to be to the advantage of the district and if the water supply, canals, etc. are sufficient to supply the same without injury to the lands of the district. Any such petition which may be granted adding lands to a district shall be filed for record and be recorded in the office of the county clerk of the county in which such land is situated."

By reference to the foregoing quoted articles, it will be noted that ordinarily any owner of land who wishes to have his land included within a water control and improvement district may do so by complying with the provisions of such articles. However, since the State is involved in your particular question, it is our opinion that the Veterans' Land Board in the absence of statutory authority cannot enter into any type of agreement with a water control and improvement district which agreement would attempt to bind the State for payment of any tax assessed against the land under contract of sale and purchase between the Veterans' Land Board and the veteran. Article 5421m, V.C.S., does not provide authority for the Board to enter into such type of agreement.

Article 7150, V.C.S., exempting from taxation certain property provides that all property, whether real or personal, belonging exclusively to this State, or any political subdivision thereof, shall be exempt from taxation.

In the instant state of facts, the State is the holder of the legal title to the land which is the subject of the contract of sale and purchase between the Board and the veteran. So long as the land remains

a part of the Veterans' Land Fund, that is, the land has not become the subject of any contract of sale and purchase between the Board and the Veteran, the land is not taxable. After the contract of sale and purchase has been executed, the land becomes subject to assessment and taxation in the name of the veteran. The reasoning for this statement is based on analogy of Article 7173, V.C.S., which provides that property held under a lease for a term of three years or more, or held under a contract for the purchase thereof, belonging to this State, . . . shall be considered for all the purposes of taxation as the property of the person so holding the same except as otherwise specifically provided by law.

Under the provisions of Article 5421m, the contract of sale and purchase between the Board and the veteran cannot be converted into an outright conveyance of the legal title to the veteran until the land is fully paid for. During the term of the contract the land should be rendered for taxation in the name of the veteran contract purchaser or his assignee, provided such assignment is not made prior to the end of the first three years of the contract.

In the light of the fact that the veteran only may be held liable for the tax on the land, there is no necessity for the Board and the veteran to enter into the contract with a water control and improvement district if such could be legally done by the Board. It appears that a petition signed by the veteran alone is sufficient to authorize a water control and improvement district to furnish its services to the veteran on the conditions stated therein.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General of Texas

By


J. A. Amis, Jr.
Assistant Attorney General

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