THE TEXAS HOUSE OF REPRESENTATIVES

FRED HILL RQ-703 CHAIRMAN, COMMITTEE ON URBAN AFFAIRS

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Opinion Committee

The Honorable Dan Morales
Texas Attorney General
P.O. Box 12548
Austin, TX 78711-2548

RE: V.T.C.A., Tax Code, Chapter 311, the Tax Increment Financing Act ("Act").

Dear Dan,

This letter requests an opinion on several issues arising because of a decrease in the total appraised value of real property in a Tax Increment Financing ("TIF") reinvestment zone following the year in which the TIF reinvestment zone was designated under the Act.

FACTS

On December 14, 1988, the City of Dallas (the "City") passed Ordinance No. 20160, (attached as **Exhibit A**), designating a certain area of the city known as State-Thomas as Tax Increment Financing Reinvestment Zone Number One, (the "Zone"), to promote development within the State-Thomas area. The ordinance provided that the Zone would take effect on January 1, 1989, and terminate on December 31, 2008. The tax increment base of the Zone was $48,299,020 (the total appraised value of all taxable real property in the Zone for the year in which the Zone was designated - 1988). In 1990, the City made a bridge loan of $2,100,000 to the Zone Financing Plan for the Zone (attached as **Exhibit B**), anticipated that tax revenues on the captured appraised value of property in the Zone would pay back the City's bridge loan by the end of the 12th year with interest accruing at 3% per year for the first five years and 7% per year thereafter. Despite improvements in the Zone of over $13,000,000, the total appraised value of all taxable real property located in the Zone on January 1, 1993, was $32,577,087 -- which represents a **negative** captured appraised value of $15,721,933 pursuant to §311.012(b) of the Act. Since its creation, there have been only two years during which an actual tax increment for the Zone was collected ($57,598 in 1990 and $22,716 in 1991). Because of the severe decrease in the value of taxable real property in the Zone, a tax increment is not anticipated in the future.

Based on the foregoing facts and the relevant provisions of the Act, please answer the following questions:

QUESTION 1

If the City terminates the Zone by City ordinance pursuant to §311.017(a) of the Act, can the City then create a new TIF reinvestment zone with geographic boundaries identical to those of the original Zone for the purpose of setting a new tax increment base pursuant to §311.012(c) of the Act?

QUESTION 2

Assuming the answer to Question 1 is "yes":

(a) Could the City's bridge loan to the original Zone be treated as a "projected cost" of the newly-created TIF reinvestment zone pursuant to §311.002(1) of the Act?

(b) Could the bridge loan of the original Zone be assumed by the newly-created TIF reinvestment zone?

QUESTION 3

Is there any mechanism by which the tax increment base under §311.012(c) of the Act can be adjusted to account for severe decreases in the total appraised value of real property in a TIF reinvestment zone following the year in which the TIF reinvestment zone was designated under the Act?

I would appreciate your prompt attention to an opinion concerning these three questions.

Sincerely,

Fred Hill

FH/dmo