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**The Senate of
The State of Texas**

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April 4, 2005

RQ-0326-GA

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APR 06 2005

OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of Texas
Attn: Opinion Committee
Post Office Box 12548
Austin, Texas 78711-2548

FILE # ML-44179-05

I.D. # 044179

Re: Whether a city that has not enacted a residence homestead exemption under Texas Constitution, Article VIII, Section 1-b, is eligible to adopt the tax limitation under Section 1-b(h) by city council action or by means of an election after receipt of a petition from the requisite number of voters?

Dear General Abbott:

The purpose of this letter is to request an opinion on whether a city that has not enacted a residence homestead exemption under Texas Constitution, Article VIII, Section 1-b, is eligible to adopt the tax limitation under Section 1-b(h) by city council action or by means of an election after receipt of a petition from the requisite number of voters.

Texas Constitution, Article VIII, Section 1-b(h) states that a governing body of a city by official action *may* provide the tax limitation *if* a person who is disabled or is sixty-five years of age or older receives a residence homestead exemption prescribed or authorized by this section. That section goes on to state that, upon receipt of a petition signed by five percent of the registered voters of the city, the city *shall* call an election to determine by majority vote whether to establish the tax limitation.

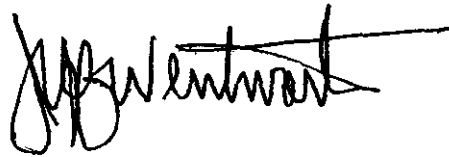


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Despite the fact that the City of Windcrest has never enacted a residence homestead exemption under Texas Constitution, Article VIII, Section 1-b, the city has received a petition signed by the requisite numbers of registered voters. Because the constitutional provision appears to restrict tax limitations to cities that have previously adopted residence homestead exemptions, it is unclear what action the city is authorized or required to take upon receipt of a petition by the voters.

I respectfully request an opinion on the foregoing issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Wentworth", with a long horizontal stroke extending to the right.

Jeff Wentworth
Chairman
Senate Jurisprudence Committee

JW/kh