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OPINION COMMITTEE

OFFICE OF THE COUNTY ATTORNEY
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OPEN RECORDS DIVISION

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RQ-0555-GA

November 15, 2006

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

FILE # ML-45062-06
I.D. # 45062

Re: Request for Attorney General's opinion regarding taxing unit's authority to waive penalties and interest pursuant to Tx. Property Tax Code Section 33.011.

Counselors:

I have been asked by several of the local taxing units to obtain an Attorney General's opinion regarding the following question:

May local taxing units waive penalties and interest pursuant to Property Tax Code Section 33.011 (or any other provision of the Property Tax Code) on delinquent ad valorem taxes which became delinquent as a result of an act or omission of an agent of the appraisal district, which were paid in full (including all accrued penalties and interest) within 21 days after the taxpayer knew or should have known of the delinquency, when a written request for such waiver was received within such 21 day period, but not within the 181st day after the delinquency date?

Howard County, Forsan ISD, Howard College and the Permian Basin Underground Water Conservation District levy ad valorem property taxes on the real property in question. Taxes became delinquent on this property for the years 2003, 2004 and 2005 as a result of an act or omission on the part of an agent of the appraisal office. The taxpayer became aware of the delinquency on or about October 15, 2006 and paid the delinquent taxes for all three

Attorney General of Texas

November 15, 2006

Page 2

years, including all accrued penalty and interest, under protest on October 30, 2006. The taxpayer accompanied the payment with a simultaneous written request for a waiver of the penalties and interest pursuant to Texas Property Tax Code Section 33.011. The taxes were paid, and written request for a waiver was made, sooner than the 21st day after the taxpayer knew or should have known of the delinquency. However, the request for waiver was not made before the 181st day after the delinquency date.

Several, perhaps all, of the taxing entities involved would like to waive the penalties and interest on this account, but would like to determine whether it is within their authority to do so, either pursuant to Texas Property Tax Code Section 33.011 or any other statute or constitutional provision.

Thank you for our prompt attention to this matter.

Very Truly Yours,



C. E. "Mike" Thomas, III
Howard County Attorney

CET:sfg