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June 30, 2000

RQ-0255-JC

The Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RECEIVED

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OPINION

FILE # ML-41503-00

I.D. # 41503

Re: Whether penalties and interest are cancelled on 1981 taxes that remain delinquent since 1982, but for which no delinquent tax notice has been sent as required by Property Tax Code § 33.04; C.A. File No. 86,043.

Dear General Cornyn:

This letter is to request your opinion on whether penalties and interest are cancelled on taxes that remain delinquent since 1982 if the five year delinquent tax notice has never been sent as required by the Tax Code.

Due to an entry error that occurred during the replat of residential properties, prior delinquencies were not transferred to the newly created property account numbers. Consequently, no delinquent tax notices have been sent to the property owners since 1982, including the five (5) year notice required by TEX. TAX CODE ANN. § 33.04(b). The Code further provides that failure to send the notice required by Subsection (b) cancels penalties and interest accrued on taxes that are delinquent more than five years or a multiple of five years. TEX. TAX CODE ANN. § 33.04(c).

Our specific question is whether all penalties and interest accrued to date are cancelled, or merely a portion thereof.

Our Memorandum is attached. Should you need additional information, please contact the undersigned at 713-755-1278.

Thank you for your courtesy and cooperation.

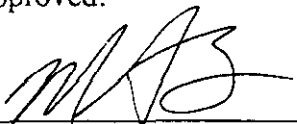
Sincerely,

MICHAEL P. FLEMING
County Attorney



By JACQUELINE LUCCI
Assistant County Attorney

Approved:



MICHAEL A. STAFFORD
First Assistant County Attorney