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**OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION**

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

FILE # ML-41778-00
I.D. # 41778

Re: Whether a taxing unit entitled to request a public resale of tax foreclosed property under TEX. TAX CODE § 34.05(c) may, by a "blanket" or omnibus resolution, direct that any and all of such property be resold in the manner provided by TEX. TAX CODE § 34.05(d) and at such times and with respect to such property as might be periodically requested by the taxing unit's law firm.

Dear General Cornyn:

This letter is to request your opinion on whether a constable in Harris County, in publicly reselling property acquired by the county through tax foreclosure, may rely upon a "blanket" or omnibus resolution of the Harris County commissioners' court requesting a public resale of any and all of such property as might be specified from time to time by the county's attorneys.

Harris County, along with the City of Houston and Houston Independent School District, are operating under an interlocal agreement regarding the sale, management and resale of seized and tax foreclosed property. Under that agreement, property for which no sufficient bid is received at original tax sale is bid off to Harris County as the designated taxing unit grantee under TEX. TAX CODE § 34.01(j), and Harris County takes title to the property for the use and benefit of itself and the city and school district as provided by TEX. TAX CODE § 34.01(k).

It is provided by TEX. TAX CODE § 34.05(c) that the taxing unit purchasing property at a tax sale may, by resolution of its governing body, request that the sheriff or a constable resell the property at a public sale. It is estimated that upwards of 100 parcels per month will be subject to being resold in Harris County on behalf of the county, city and school district. Rather than making requests by separate "property-specific" resolutions for the resale of properties as they are acquired, it has been proposed that Harris County Commissioners Court issue a "blanket" or omnibus resolution requesting, directing and authorizing any constable of Harris County "to

resell at public sale any and all property bid off to Harris County, as requested by the County's tax collection attorneys". In other words, the policy objective as set out in the proposed resolution is to resell all of such properties, whether now owned or hereafter acquired, by public sale conducted by constables under TEX. TAX CODE § 34.05(d). Further, the resolution is intended to authorize the resale of a specific property as and when a particular constable receives a request by and through the county's attorneys with respect to that particular property.

Restated, our specific question is whether such a resolution serves as valid authority for a constable receiving a request from the County's tax collection attorney to carry out his or her duties under TEX. TAX CODE § 34.05(d).

A corollary issue has arisen regarding the question of whether a resolution under TEX. TAX CODE § 34.05(c) is in the nature of a "writ", thereby carrying with it the requirement of TEX. R. CIV. PROC. 621 that it be executed within 30, 60 or 90 days, depending upon the time period requested by the plaintiff in execution.

Attached hereto to aid you in rendering an opinion is a copy of the resolution proposed for Harris County commissioners' court, together with our Memorandum regarding the issues presented. 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