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RQ-0261-GA

WILL HARTNETT

August 23, 2004

RECEIVED

AUG 23 2004

OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-043 888-04
I.D. # 043888

RE: Request for Attorney General's opinion clarifying JC-0133 (1999), as it relates to a tax abatement on new business personal property located at a site that was the subject of a prior business personal property tax abatement.

Dear General Abbott:

Section 312.204(a) of the Texas Tax Code (the Property Redevelopment and Tax Abatement Act) (the "Act") provides:

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone,...to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years ...

The Attorney General issued an opinion on October 28, 1999, stating that a governmental entity may not grant successive ten-year tax abatement agreements applying to the same specific property. Op. Tex. Atty. Gen. JC-0133, P. 3.

Because JC-0133 dealt with real property tax abatement, would the answer be different if the tax abatement were for business personal property? Specifically:

1. Do Section 312.204(a) of the Act and JC-0133 prohibit a city from granting tax abatements for newly added business personal property if there was an earlier ten-year tax abatement at that site on previously existing personal property?



COMMITTEES: JUDICIAL AFFAIRS, CHAIRMAN
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2. Can a city provide incentives to a manufacturing facility investing within an existing site for the expansion, replacement, or installation of new, separately defined personal property if the manufacturer received a prior, ten-year tangible personal property tax abatement at that site?

3. Would such a tax abatement for new business personal property be disallowed at the site because of the prior tax abatement at the site on entirely different business personal property?

I respectfully request an opinion on these issues.

Best regards,

A handwritten signature in black ink that reads "Will Hartnett". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Will Hartnett