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OPINION COMMITTEE



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The Senate of The State of Texas

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May 9, 2012

RQ-1060-GA

The Honorable Greg Abbott
Attorney General of Texas
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Homestead exemption applications filed by judges, spouses of judges, or peace officers that are legally entitled to hold driver licenses with an address other than their actual residence address

Dear General Abbott:

This is a request for an opinion from your office.

Background

The 82nd Legislature, during the regular session, enacted HB 252 dealing with applications for various types of residence homestead exemptions from ad valorem property taxation. You recently issued Opinion No. GA-0924 that cites Tax Code Sec. 11.43(n), which provides as follows:

(n) A chief appraiser may not allow an exemption provided by Section 11.13 unless:

- (1) the address on the driver's license or state-issued personal identification certificate provided by the applicant under Subsection (j) corresponds to the address on the applicant's vehicle registration receipt or utility bill provided under that subsection; and
- (2) the address indicated in Subdivision (1) corresponds to the address of the property for which the exemption is claimed.

The issue now confronting chief appraisers is that Transportation Code Sec. 521.121(c) permits the Department of Public Safety (the department) to issue to a driver license to a federal judge, a state judge, or the spouse of a federal or state judge that bears "the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge."



Likewise, Transportation Code Sec. 521.1211 permits the department to issue a peace officer a driver license "that omits the license holder's actual residence address and includes, as an alternative, an address that is in the municipality or county of the peace officer's residence and is acceptable to the department."

Issues on which an opinion is requested

Because of these Transportation Code provisions, and in light of the Tax Code's specific requirement that the applicant for a homestead exemption produce a driver license or personal identification certificate bearing the address of the property on which the exemption is claimed, I respectfully request an opinion from your office on the following legal issues:

- (1) If the applicant for a homestead exemption establishes to the chief appraiser that the applicant's driver license or personal identification certificate bears an alternate address pursuant to either of the previously cited Transportation Code provisions, may the chief appraiser approve a homestead exemption if the applicant otherwise qualifies; and
- (2) If the answer to Question 1 is in the affirmative, what sort of alternative documentation proving eligibility for the residence homestead exemption may the chief appraiser accept?

I respectfully suggest that it is necessary for chief appraisers to harmonize the seemingly conflicting provisions of the Tax and Transportation Codes, and be authorized, in these specific instances, to consider other documentation proving residency at the applicant's address such as vehicle registration receipts and utility bills.

It is worthy of note that in Tax Code Sec. 25.025, the Legislature has provided for the appraisal district, upon written request, to hold in confidence the residence address information of judges, peace officers, and various other types of individuals employed in the criminal justice system.

Since judges and peace officers are currently filing homestead exemption applications that pose the issues I have noted, I very much appreciate your earliest possible attention to this important request.

Sincerely,



John Whitmire, Chair
Senate Committee on Criminal Justice