

2020-2021 TEXAS PROPERTY TAX CASE LAW IN REVIEW

(Cases and opinions current through March 1, 2021)

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TEXAS COURTS OF APPEALS

WITHOUT CROSS-CONVEYANCES, AN APPRAISAL DISTRICT MAY NOT APPRAISE UNITIZED ROYALTY INTERESTS IN A COUNTY IN WHICH THE ROYALTY OWNER DOES NOT OWN PROPERTY ASSOCIATED WITH THE UNIT.

***San Augustine Cty. Appraisal Dist. v. Chambers*, 2021 WL 219300 (Tex. App.—Tyler January 21, 2021, pet. filed) (to be published).**

Owners of land in Shelby County signed oil and gas leases which contained pooling provisions that allowed the lessee to pool their leases with others. A unit was created with oil and gas interests in San Augustine County. The owners' leases specifically prohibited cross-conveyances. The owners accepted the appraisal from the Shelby County Appraisal District but disputed appraisal by the San Augustine Appraisal District. The owners signed division orders and accepted monies from the pooled unit. On appeal, the court found that in the absence of cross-conveyancing between the pooled units, an appraisal district could not appraise the property in the unit located in a county in which they did not own the surface estate. Signing of division orders and acceptance of monies from the pooled units did not override the lack of cross-conveyancing agreements.

A CHARTER SCHOOL IS ENTITLED TO A PUBLIC PROPERTY EXEMPTION FOR LEASED FACILITIES IF THE LEASE CONTAINS AN OPTION TO BUY WHICH CAN BE EXERCISED AT ANY TIME.

***Dallas Cent. Appraisal Dist. v. Int'l Am. Educ. Fed'n Inc.*, 2020 WL 7706288 (Tex. App.—Dallas Dec. 29, 2020, no pet.) (to be published).**

A charter school in Dallas leased a building and land from a private owner for purposes of

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operating its school. The school requested a public property exemption for the property. The appraisal district denied the request. In court, the parties agreed that the property was used for a public purpose; however, the appraisal district argued that the school did not qualify for exemption because it did not own the property, but instead was a lessee. Ownership of property is an express requirement for a public property exemption.

On appeal, the court of appeals reviewed the lease between the parties. The lease contained “an option to buy” the property which could be exercised by the school anytime between the execution of the lease and the lease termination date, provided that the school was not in default of its rental payments. Under those facts, the court found that the school was the “equitable” owner of the property because it had an immediate right to demand conveyance of title to itself and it therefore was entitled to exemption.

SECTION 25.25(C)(3) MAY NOT BE USED TO CORRECT ERRORS AS TO WHICH TAXING JURISDICTIONS A PROPERTY IS LOCATED. TAXES DO NOT BECOME DELINQUENT UNTIL 125 DAYS AFTER A TAXPAYER FIRST BECOMES AWARE THAT TAXES WERE DUE.

***SPX Corp. v. Altinger*, 2020 WL 6791065, 614 S.W.3d 362 (2020) (Tex. App.—Houston [14th Dist.] Nov. 19, 2020, no pet.).**

In tax years 2010 – 2013, a company owned taxable business personal property in Houston. The Chief Appraiser became aware that the appraisal district had misidentified the taxing units applicable to the company’s physical location. The Chief Appraiser sought to correct this error under section 25.25(c)(3), claiming that the property did not exist “at the location described in the appraisal roll.” The Chief Appraiser mailed a copy of the section 25.25(c)(3) motion to the taxpayer’s agent, who misplaced the letter. As a result, the company did not protest or otherwise challenge the motion to correct error, and the appraisal review board corrected the identities of the taxing jurisdictions. Upon learning of this action, the agent filed a protest for lack of notice. The appraisal review board denied the protest because the taxpayer failed to timely pay the property taxes based on the new taxing jurisdictions, and the taxpayer failed to protest the section 25.25(c)(3) motion. The court found that the taxpayer had timely paid the taxes because section 41.44(c)(3) “[extended] [the deadline for tax payment] to the 125th day after the property owner claims to have first received written notice of the taxes in question.”

On appeal, the appraisal district claimed the trial court lacked jurisdiction because the company failed to exhaust its administrative remedies under the Chief Appraiser’s section 25.25(c)(3) motion to correct the location of the company’s property. The court of appeals disagreed, reasoning that “the filing of a motion to correct a property’s location under section 25.25(c)(3), without more, is not an action subject to protest.” The appraisal district further argued that section 25.25(c)(3) allowed it to correct erroneous listing of taxing jurisdictions. The appellate court disagreed, finding “location means the property’s physical location.” The court stated, “to receive a section 25.25(c)(3) correction, the appraisal roll must erroneously reflect that a particular form of property exists at a specific location, and, in fact, no such property exists at that location.” The appraisal district attempted to argue that “location” for purposes of section 25.25(c)(3) meant the property’s taxable situs, but the court rejected the argument, explaining that section 25.25(c)(3) does not

authorize a party to challenge “the extent to which business personal property located in a particular jurisdiction is taxable in that jurisdiction.” Because the Chief Appraiser’s motion did not seek to change the physical location of the property, but instead sought to change the appraisal roll’s identification of the taxing units in which the property was taxed, the court rejected the plea to the jurisdiction.

APPRAISAL DISTRICT MUST CONSIDER THE ENTIRETY OF AN AGRICULTURAL OPERATION IN DETERMINING WHETHER PROPERTY QUALIFIES FOR OPEN-SPACE USE DESIGNATION.

Hood Cty. Appraisal Dist. v. Mandy Ann Mgmt. Ltd., 2020 WL 6601595 (Tex. App.—Fort Worth Nov. 12, 2020, no pet.) (mem. op.).

A company owned approximately 680 acres of land in Hood County. The appraisal district sent notices to the company determining that a change of use occurred on the northern 240 acres of the tract because that area was being operated as a rock quarry. In response, the owner claimed that it had historically used all 680 acres for grazing livestock, and that the cattle continued to graze the entire 680-acre tract, including the area where the quarry was situated. A jury unanimously found in favor of the landowner and agreed that the 240-acre tract qualified as open-space land. The appraisal district appealed the jury’s verdict, arguing there was insufficient evidence to support the jury’s decision. The crux of the appraisal district’s argument focused on the northern 240 acres, emphasizing the commercial nature of the rock quarry operation and ignored the remainder of the entire 680-tract. The owner argued that agricultural activity on the entire 240-acre property should not be considered in isolation and that, when viewed in its entirety, all of the 680 acres should qualify for the open-space designation. The jury heard from neighboring landowners who testified that livestock, specifically cows, frequently roamed on the subject property. The jury heard evidence regarding the “holistic view” as to how the entire 680-acre tract was used for livestock purposes. The Court of Appeals weighed all of the evidence and found in favor of the taxpayer, noting that “The [appraisal district], in contrast, tried to focus the jury’s attention exclusively on the 239.51 acres in the northwest quarry where the quarry was located,” despite legal authority and instructions to consider the “entire agricultural operation as a unit” if a property owner ranched several tracts as a unit. In conclusion, the court found that appraisal districts may not fixate on a portion of a multi-tract unit of land used for agricultural or livestock purposes, and may not may not disqualify discrete parcels of farm or ranchland on the basis that a particular parcel of property, in isolation, is not used primarily for livestock or agricultural purposes. Instead, the appraisal district is required to consider the entirety of an agricultural operation of the unit.

REAL PROPERTY LEASED BY A GOVERNMENTAL ENTITY DOES NOT QUALIFY FOR PROPERTY TAX EXEMPTION.

Dallas Cent. Appraisal Dist. v. City of Dallas, 2020 WL 6334805 (Tex. App.—Dallas Oct. 29, 2020, pet. filed) (mem. op.).

The City of Dallas filed a lawsuit appealing the appraisal district’s order denying the City’s request for a public property tax exemption for property leased by the City. The property was owned by a

private entity but was used exclusively for a public purpose. The City argued it was entitled to an exemption pursuant to section 11.11 of the Texas Tax Code (which exempts property from taxation if it is owned by a political subdivision and used for a public purpose). The City owned the leasehold and used the property for a public purpose. The appraisal district countered that exemptions are only allowed if a governmental entity owns the property at issue. The Dallas Court of Appeals agreed with the appraisal district and denied the City's request for exemption.

APPRAISAL DISTRICT MAY NOT PROCEED TO TRIAL AND OBTAIN A VALUATION DETERMINATION IN DISTRICT COURT IF THE PLAINTIFF TAXPAYER FAILS TO APPEAR FOR TRIAL.

***Firststone Heights LLC v. Travis Cent. Appraisal Dist.*, 2020 WL 6478414 (Tex. App.—Austin Oct. 28, 2020, no pet.) (mem. op.).**

A property owner filed suit to contest the order of the Travis County Appraisal Review Board setting the value of its property. The owner failed to appear for trial; however, the appraisal district appeared, announced ready, and the trial court allowed the trial to proceed in the absence of the property owner. The court rendered judgment fixing the appraised value of the property based on the evidence and arguments presented by the appraisal district at trial. The owner filed an appeal from the trial court's judgment, arguing the proper remedy was dismissal of the case. The Austin Court of Appeals agreed with the property owner and held, "When a plaintiff fails to appear and prosecute his case, the trial court cannot try the plaintiff's cause of action, and the only remedy is to dismiss the same."

TRIAL COURTS HAVE JURISDICTION TO REVIEW APPRAISAL REVIEW BOARD ORDERS IF A TAXPAYER HAS EXHAUSTED ITS ADMINISTRATIVE REMEDIES BY APPEARING BEFORE THE REVIEW BOARD.

***Fort Bend Cent. Appraisal Dist. v. McGee Chapel Baptist Church*, 611 S.W.3d 443 (Tex. App.—Houston [14th Dist.] 2020, no pet.).**

In 2016, an appraisal district notified a church that it was removing the church's religious property tax exemption for tax years 2012-2016. The church timely protested the district's decision. The district asserted it had sent notices to the church regarding the date of the exemption hearing. The church claimed it never received the notices. As a result, the church failed to appear for the appraisal review board hearing. Because the church failed to appear for the hearing, the appraisal review board did not issue a ruling on the protest.

Shortly thereafter, the church filed a protest with the appraisal review board claiming it did not receive notice of the exemption hearing as allowed under section 41.411(a) of the Texas Tax Code. The appraisal review board scheduled a hearing on the church's section 41.411 protest. The church appeared at the hearing, and the appraisal review board denied the church's section 41.411 protest.

The church filed suit seeking review of both determinations. The district filed a plea to the jurisdiction, arguing the church failed to exhaust its administrative remedies prior to filing suit.

The Houston Court of Appeals held that the trial court possessed subject matter jurisdiction over the church's section 41.411 protest because the church had exhausted its administrative remedies by appearing at the hearing. However, the court of appeals concluded that the trial court lacked subject matter jurisdiction over the church's exemption protest because the appraisal review board never issued a final order on the exemption protest, reasoning, "The ARB has not taken action on the merits of the exemption because McGee Chapel did not appear at the Exemption Protest Hearing and the ARB denied McGee Chapel's Section 41.411 protest without reaching the exemption issue. Because the ARB has yet to determine McGee Chapel's Exemption Protest, McGee Chapel has not exhausted its administrative remedies, and the issue is not ripe for judicial review under Chapter 42."

TIMELY PAYMENT OF TAXES DOES NOT GRANT AN OWNER AN INDEFINITE WINDOW OF TIME TO PROTEST APPRAISAL OF BUSINESS PERSONAL PROPERTY. OWNERS ARE REQUIRED TO FILE SECTION 25.25(D) MOTIONS TO CORRECT AND SECTION 41.411 LACK OF NOTICE PROTESTS PRIOR TO THE GENERAL FEBRUARY 1 DELINQUENCY DEADLINE, REGARDLESS OF WHETHER THE TAXES ACTUALLY BECOME DELINQUENT.

***Harris Cty. Appraisal Dist. v. IQ Life Sci. Corp.*, 612 S.W.3d 93 (Tex. App.—Houston [14th Dist.] 2020, pet. filed).**

A company owned business personal property in Harris County for three tax years. The company did not protest the appraised value of the business personal property for any of the tax years at issue, prior to the February 1 delinquency date of each year after the tax year. Instead, the company paid the exact amount shown on its property tax bills before the February 1 deadline. Years later, the company sought to protest the appraised value of its personal property pursuant to section 25.25(d), arguing it was entitled to correct the appraisal roll. It cited section 41.411, asserting Harris County Appraisal District failed to send notices of the appraised values of its personal property. The company filed suit in district court after the appraisal review board denied its protest. The appraisal district filed a plea to the jurisdiction, arguing the court lacked subject matter jurisdiction to hear Plaintiff's lawsuit because the company failed to timely exhaust its administrative remedies by protesting the appraised values or filing a section 25.25(d) motion prior to the February 1 delinquency date for each respective tax year. In essence, the appraisal district argued Plaintiff waited too long to protest the appraised value of its personal property, and the court lacked jurisdiction to hear the claim. The trial court denied the appraisal district's plea to jurisdiction. On appeal, the company argued that no deadline existed for it to file its section 25.25(d) motion because it had timely paid the taxes owed each year, therefore the statutory deadline – requiring a motion to be filed prior to the delinquency date – was never triggered. The 14th Court of Appeals rejected this argument, reasoning that "any motion made pursuant to section 25.25(d) must be filed before the date the yearly taxes on the subject land become delinquent." The court further explained that "construing section 25.25(d) so that it allows motions for substantive corrections to property taxes to be filed years, even decades after the appraisal rolls have become fixed, would lead to absurd results and is directly contrary to the legislature's intent." Regarding the company's section 41.411 lack of notice protest, the district argued the company's protest was untimely. In response, the company argued there was no deadline to file its protest because it never received the appraisal notices. Alternatively, the company argued its protest was

timely because: (1) the statute at issue requires a property owner to file a protest “prior to the date the taxes on the property to which the notice applies become delinquent,” and (2) the company timely paid the taxes for each year at issue, and therefore the taxes never became delinquent. The court rejected these arguments and held that section 41.44(c) and section 41.44(c-3) deadlines described the general February 1 delinquency date that immediately follows each tax year, and that it applies to both the date for filing protests and for payment of taxes.

A TRIAL COURT ABUSES ITS DISCRETION IF IT REQUIRES A TAXPAYER TO PRODUCE EVIDENCE IN DISCOVERY PERTAINING TO THE MARKET VALUE OF A PROPERTY IN A SUIT WHERE THE TAXPAYER HAS ONLY RAISED AN UNEQUAL APPRAISAL CLAIM.

In re APTWT, LLC, 612 S.W.3d 85 (Tex. App.—Houston [14th Dist.] 2020, no pet.).

The owner of an apartment complex filed suit against an appraisal district, claiming unequal appraisal. The appraisal district sought discovery and filed a motion to compel the property owner to produce various documents related to the purchase of the apartment complex, including all appraisals, sales documents, and closing statements arising out of the owner’s purchase. The owner filed an interlocutory challenge, claiming that the trial court had abused its discretion by asking for documents irrelevant to the suit. The court of appeals reversed the trial court’s order finding that the trial court abused its discretion because, in an unequal appraisal suit, the scope of discovery was limited to matters relevant to the owner’s unequal appraisal claim. The court concluded, “evidence of market value of the subject property is not necessarily relevant in such an action.”

HEIRS OF DECEASED TAXPAYER MAY NOT COLLATERALLY ATTACK A DELINQUENT TAX JUDGMENT ON THE GROUNDS THAT PUBLIC RECORDS EXISTED AT THE TIME OF JUDGMENT, DEMONSTRATING THAT PUBLICATION BY NOTIFICATION WAS NOT APPROPRIATE.

Mitchell v. Map Res., Inc., 615 S.W.3d 212 (Tex. App.—El Paso 2020, pet. filed).

In 1999, taxing authorities sued to foreclose tax liens on mineral interests. The authorities claimed they could not locate and personally serve all of the defendants. As a result, they cited several defendants by publication, i.e. the taxing authorities “served” the defendants by publishing notice of the lawsuit. The attorney for the taxing units testified in support of serving the defendants by publication, claiming the defendants were unknown and could not be located after a diligent inquiry. The tax delinquency case proceeded to non-jury trial, and the court issued a judgment foreclosing the defendants’ interests. Shortly thereafter, those interests were sold at a sheriff’s sale.

Fifteen years later, heirs of one of the defendant’s filed suit against the purchasers of the mineral interests to set aside the tax judgment. The heirs claimed the 1999 tax judgment was void as to their relative because “there was a complete failure of service of citation” on the deceased defendant and as a result she was thereby due process. The heirs argued that citation by publication was deficient because the ancestor was alive and her address could have been easily discovered by searching public records, including various warranty deeds of record. In short, the plaintiffs argued

the taxing authorities could have easily ascertained the address of their relative and served her in person, which plaintiffs argued due process required. On appeal, the El Paso Court of Appeals determined that the district court had jurisdiction over the defendant in the 1999 tax suit by service by publication. The court ruled the heirs could not collaterally attack the 1999 judgment with extrinsic evidence but could only attack based on the testimony and evidence presented to the court.

APPRAISAL DISTRICT MAY NOT INCREASE TO MARKET VALUE THE OPEN SPACE/AGRICULTURAL VALUATION OF A PROPERTY IN THE YEAR OF A CHANGE OF USE. ONLY THE FIVE PRIOR TAX YEARS MAY BE INCREASED RETROACTIVELY. FOR A TAX TO EXIST, A STATUTE MUST CLEARLY EVIDENCE THAT INTENT. THE COMPTROLLER BY RULE MAY NOT CREATE A TAX. ATTORNEYS FEES ARE NOT RECOVERABLE IN THIS TYPE OF DISPUTE.

***McKinney Millennium, LP v. Collin Cent. Appraisal Dist.*, 599 S.W.3d 57 (Tex. App.–Dallas 2020, pet. filed).**

A property had been receiving open space land (agricultural valuation) for many years. Upon the acquisition in 2014 of the property by a new owner, the agricultural use of the property ceased. In 2015, the appraisal district issued a notice to the new owner that retroactively increased the 2014 valuation of the property to its full market value and “rolled back” the valuation of the property for the five preceding years. The taxpayer accepted the five year “roll back” because clear statutory authority existed for that to occur; however, it challenged the right of the appraisal district to increase the value in the year of the change of use from open space land to market value. Nothing in the Tax Code addresses what is to occur in the year of the change of use. The Comptroller, acting under legislative authority to prescribe regulations for all aspects of open space land valuations, issued guidance in its manual that stated that the taxable value of the land in the year of change of use was to be increased from its open space value to market value. The appraisal district relied upon the Comptroller manual to change the value.

On appeal, the court ruled against the appraisal district stating, “The sovereign is bound to express its intention to tax in clear and unambiguous language,” and without a clear statutory basis for increasing the taxable value in the year of change of use, no tax can be imposed. The authority of the Comptroller to issue clarifying guidelines on open space land does not extend to the creation of a tax that the legislature did not authorize. However, the court ruled that the taxpayer was not entitled to recover its attorney’s fees from the appraisal district because recovery of attorney’s fees is limited to cases involving excessive appraisal or unequal appraisal.

NO TAX SITUS EXISTS IN A COUNTY FOR TRUCKS THAT SPEND ONLY A FEW HOURS TO A FEW DAYS IN A COUNTY. THE FACT THAT A PARENT CORPORATION OWNS A FACILITY IN A COUNTY DOES NOT PROVIDE GROUNDS FOR SITUS OF PROPERTY OWNED BY ITS SUBSIDIARY.

***Dallas Cent. Appraisal Dist. v. Nat’l Carriers, Inc.*, 2020 WL 2124178, 599 S.W.3d 57 (2020) (Tex. App.–Dallas, May 5, 2020, no pet.) (mem. op.).**

A trucking company based in Kansas owned a facility in Dallas County which it used to recruit new drivers, provide orientation and safety information for truck drivers, provide administration and perform some light maintenance for trucks. One of its subsidiaries, also based in Kansas, owned trucks that drove irregular routes across the United States. Individual trucks stopped in Dallas County for a few hours up to a few days. The appraisal district claimed it had the right to tax the portion of the truck fleet that moved through Texas in Dallas County because those trucks cumulatively were located in Dallas County “with such a permanence that it became part of the general mass of property within the boundaries of the taxing authority.” In support of its position, the appraisal district relied upon a case involving crude oil stored in tanks while awaiting transportation within the state. The court found the analogy to be “inapt” because individual trucks are distinguishable from an “undifferentiated mass of oil [that is] continuously present in [a] county.” Given the lack of any permanent presence of any of the individual trucks, the county could not claim tax situs for them. Further, the court ruled that parent entities and their subsidiaries are separate persons, so the fact that a parent entity owned property in a county is irrelevant as to whether the property of its subsidiary had taxable situs in the county.

THE USE OF DIFFERENT SQUARE FOOTAGE MEASUREMENTS THAN THOSE SHOWN ON AN APPRAISAL ROLL IS NOT A JURISDICTIONAL IMPEDIMENT TO TRIAL IN DISTRICT COURT NOTWITHSTANDING THE FAILURE OF A TAXPAYER TO RAISE THAT ISSUE BEFORE THE APPRAISAL REVIEW BOARD.

Amreit SSPF Preston Towne Crossing LP v. Collin Cent. Appraisal Dist., 2020 WL 1921685 (Tex. App.–Dallas, April 21, 2020, no pet.) (mem. op.).

Taxpayer filed suit appealing an appraisal review board order claiming an appraisal district had appraised its property in excess of market value and unequally when compared to other properties within the appraisal district. The appraisal district did not file special exceptions to the petition. Taxpayer’s expert witness failed to use the appraisal district’s square footage measurements in analyzing the tax equity of the property. Instead, the expert used net rentable area. The appraisal district filed a plea to the jurisdiction claiming that the taxpayer failed to exhaust administrative remedies by not raising the square footage disparity before the appraisal review board. The trial court granted the plea, but the appellate court reversed finding that the taxpayer’s petition sufficiently raised all aspects of the valuation process. Had the appraisal district had concerns about the jurisdictional aspects of the facts underlying the taxpayer’s claim, it should have raised those by special exceptions. However, the square footage issue could constitute a valid challenge as to the methodology of the taxpayer’s expert.

TAXPAYERS MAY FILE A CLASS ACTION FOR DECLARATORY JUDGMENT, BUT NOT FOR INJUNCTIVE RELIEF, TO CHALLENGE THE OVERALL METHODOLOGY USED BY A CHIEF APPRAISER IN VALUING THE PROPERTY WITHIN AN APPRAISAL DISTRICT. EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED.

Curtis v. Wilson, 2020 WL 1909987 (Tex. App.–Dallas, April 20, 2020, no pet.) (mem. op.).

Plaintiff filed suit against an appraisal district on behalf of himself and as class representative of other property owners in the county. Plaintiff sought declaratory and injunctive relief against the chief appraiser claiming that she failed to value each property in the county based on its individual characteristics, that she failed to take into account all available evidence in calculating values and that she violated statutory and constitutional mandates in setting values. The chief appraiser filed a plea to the jurisdiction which was denied. On appeal, the court partially agreed with the trial court and found that declaratory but not injunctive relief, is available. No exhaustion of the administrative appeal provisions of the Tax Code was required because the Plaintiff was not seeking relief under the Tax Code and was not seeking a determination as to the value of any individual property.

THE FAILURE TO RAISE TIMELY FILING OF AN OPEN SPACE LAND VALUATION APPLICATION BEFORE AN APPRAISAL REVIEW BOARD PRECLUDED AN APPEAL TO DISTRICT COURT.

Z Bar A Ranch, LP v. Tax Appraisal Dist. of Bell Cty., 2020 WL 1932908 (Tex. App.–Austin, April 22, 2020, no pet.) (mem. op.).

This case involves much conflicting testimony by the taxpayers both at the appraisal review board and at trial. The court of appeals in reviewing the case found that the taxpayers testified before the appraisal review board that they had not filed a timely open space land valuation for the property after its acquisition. (The property had a long-standing history of open space valuation but new owners are required to apply for the valuation. Appraisal districts are not required to send new owners an application or to remind them to file an application). On appeal in district court, they changed their testimony to state that they had filed an application on a timely basis and that the testimony before the appraisal review board was in error. They relied upon the *de novo* trial provisions of the Tax Code for their ability to do so. The court noted that the taxpayers before the appraisal review board only argued that the open space land valuation should have been carried over from the prior owner and the failure of the appraisal district to notify them of its removal deprived them of their rights. The court noted the testimony of one of the owners at the hearing where he stated that “we” had not filed an application. Based upon the record, the appellate court found that the taxpayers had failed to exhaust their administrative remedies by raising the issue of a timely filing of an open space land application with the district and the district’s denial of it without notice. In doing so, the court found that the trial court lacked jurisdiction to try the case.

TEXAS ATTORNEY GENERAL OPINIONS

IN RESPONSE TO THE COVID-19 CRISIS, APPRAISAL REVIEW BOARDS MAY NOT ABRIDGE THE DUE PROCESS RIGHTS OF TAXPAYERS AS SET OUT IN THE TEXAS PROPERTY TAX CODE. APPRAISAL REVIEW BOARDS MUST CONDUCT “IN PERSON” HEARINGS IF TAXPAYERS REQUEST THEM AND MAY NOT INSIST THAT TAXPAYERS ATTEND HEARINGS BY VIDEOCONFERENCING, TELEPHONE OR AFFIDAVIT. TAXPAYERS WHO HAVE BEEN DENIED AN “IN PERSON” HEARING MAY SUE THE APPRAISAL REVIEW BOARD TO COMPEL SUCH A HEARING. APPRAISAL REVIEW BOARDS ARE REQUIRED TO PHYSICALLY DELIVER WRITTEN NOTICE OF THE PROCEDURES OF THE APPRAISAL REVIEW BOARD FOR HEARINGS; MERELY POSTING THIS INFORMATION ONLINE IS INSUFFICIENT.

Tex. Atty. Gen. Op. KP-0307 (2020).

In response to the COVID-19 crisis, appraisal review boards may not abridge the due process rights of taxpayers as set out in the Texas Property Tax Code. Appraisal review boards must conduct “in person” hearings if taxpayers request them and may not insist that taxpayers attend hearings by videoconferencing, telephone or affidavit. Taxpayers who have been denied an “in person” hearing may sue the appraisal review board to compel such a hearing. Appraisal review boards are required to physically deliver written notice of the procedures of the appraisal review board for hearings; merely posting this information online is insufficient.

TAXPAYERS WHO HAVE SOLELY SUFFERED ECONOMIC LOSSES AS A RESULT OF AN EVENT SUCH AS THE COVID-19 DISASTER ARE NOT ENTITLED TO CLAIM A PRO-RATED EXEMPTION FOR THEIR LOSSES; THE EXEMPTION PROVISIONS ARE LIMITED TO EVENTS THAT CAUSE OBSERVABLE PHYSICAL DAMAGE TO A PROPERTY.

Tex. Atty. Gen. Op. KP-0299 (2020).

Taxpayers who have solely suffered economic losses as a result of an event such as the COVID-19 disaster are not entitled to claim a pro-rated exemption for their losses; the exemption provisions are limited to events that cause observable physical damage to a property.