

CAUSE NO. D-1-GN-18-006098

TEXAS PROTAX-AUSTIN, INC.;	§	IN THE DISTRICT COURT
FIVE STONE TAX ADVISERS, LLC;	§	
46 COMMERCIAL PROPERTY OWNERS	§	
113 RESIDENTIAL PROPERTY OWNERS	§	
Plaintiffs,	§	
vs.	§	
	§	OF TRAVIS COUNTY, TX
TRAVIS APPRAISAL REVIEW BOARD;	§	
MARYA CRIGLER, CHIEF APPRAISER,	§	
(In her Official Capacity)	§	
Defendants	§	201 ST JUDICIAL DISTRICT

PLAINTIFFS’ MOTION TO COMPEL
DEFENDANT MARYA CRIGLER
TO RESPOND TO DISCOVERY

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs, Texas Protax-Austin, Inc. (Protax) and 46 of Protax’s Commercial Property customers; Five Stone Tax Advisers, LLC (Five Stone) and 99 of Five Stone’s Residential Property customers, file this Motion to Compel Defendant Marya Crigler to Respond to Discovery Request notwithstanding the TCPA Motion filed by Defendant Marya Crigler and would show the court as follows:

SUMMARY

1. Plaintiffs brought suit and served discovery on the two defendants on October 9, 2018. Plaintiff property owners filed tax appraisal protests for 2018, through their tax agents, but were denied a hearing before the TARB. The Plaintiffs separately allege that Defendant Crigler actually schedules the TARB hearings, without any legal authority to do so, since that authority is vested solely in the TARB and its Chair (Betty Thompson). Neither Defendant’s Answer to the lawsuit pleads any detailed facts for their defense, beyond a general denial. Separate discovery requests

were served with the Original Petition on Defendant Travis Appraisal Review Board (TARB) and Defendant Chief Appraiser Marya Crigler.

2. This lawsuit involves 3 distinct, stand-alone “legal actions”:

Legal Actions Against TARB

a. Two legal actions are brought against TARB: (1) as “interested persons,” all of the Plaintiffs claim TARB violated the Texas Open Meetings Act (TOMA) by voting—without public notice as required by TOMA—in a meeting on July 14, 2018 to dismiss Plaintiffs’ appraisal protests, and (2) the Plaintiff property owners bring suit against TARB pursuant to Tex. Tax Code 41.45(f) to require the TARB to give them the appraisal protest hearing.¹

Legal Action Against Crigler

b. Another separate legal action for injunction, based on *ultra vires* acts by Crigler, is brought by Plaintiff property owners to stop Crigler from deciding the schedules for the TARB hearings, a power that only the TARB Chairperson has. In appraisal protest hearings, Crigler is the opposing party to Plaintiffs in what are supposed to be neutral, independent ARB hearings. Plaintiffs allege that Crigler exceeded her authority, which is limited to merely provide clerical assistance to the ARB, and, instead, has taken charge of the scheduling and denying Plaintiffs their hearings.

False Content and False Basis for Crigler’s TCPA Motion, Supporting Discovery

3. Crigler’s TCPA Motion is frivolous because it is based on blatant misrepresentation of Plaintiffs Petition, including an alleged claim by Plaintiffs that Plaintiffs have not pled against

¹ Tex. Tax. Code § (f) “A property owner who has been denied a hearing to which the property owner is entitled under this chapter may bring suit against the appraisal review board by filing a petition or application in district court to compel the board to provide the hearing. If the property owner is entitled to the hearing, the court shall order the hearing to be held and may award court costs and reasonable attorney fees to the property owner.”

Crigler. Crigler’s Motion is based entirely on the false premise that Plaintiffs seek to enjoin Crigler from providing *clerical assistance* to the TARB on scheduling—which is allowed by law. In fact, Plaintiffs’ *ultra vires* legal action against Crigler is based on Crigler taking charge of scheduling, supplanting control by the TARB, well beyond just providing clerical assistance. *COMPARE*

CRIGLER TCPA MOTION at ¶ 1:

“Plaintiffs seek prospective injunctive relief against the Chief Appraiser to prevent her from *providing assistance to TARB* in scheduling appraisal protest hearings as permitted in section 6.43(f) of the Tax Code.” (emphasis added).

PLAINTIFFS’ ORIGINAL PETITION at ¶¶ 22, 23:

Injunction to Stop Chief Appraiser’s *Ultra Vires* Scheduling and Selection of ARB Panels

22. Plaintiffs are all adversely and uniquely affected by the effective denial of their right to an ARB appraisal protest hearing by Chief Appraiser Marya Crigler’s (and her Chief Deputy Lonnie Hendry’s) tactic of over-scheduling hearings to get the protests dismissed when the ARB panel runs out of time to conduct the hearing as Crigler and her staff scheduled. The Chief Appraiser does not have authority to schedule ARB panel hearings or to select with protests are heard by which ARB panel (which are supposed to be assigned randomly). The Texas Tax Code, section 41.45(a) says that upon a taxpayer filing notice of protest of the appraisal, “the appraisal review board shall schedule a hearing on the protest.” (emphasis added). Section 41.66(o) says, “The chairman of an appraisal review board or a member designated by the chairman may make decisions with regard to the scheduling or postponement of a hearing....”

23. While Tex. Tax Code section 6.43(f) allows the ARB to get “clerical assistance” from the Chief Appraiser’s staff including “with scheduling and arranging of hearings,” that section does not permit what has now occurred in Travis County: The complete abdication of any independence by the ARB in establishing a fair schedule of hearings and total delegation of that function to the Chief Appraiser. The Chief Appraiser herself has admitted that “she” is scheduling the hearings and selecting the panels (in a non-random way, in violation of the Texas Comptroller’s rules). Injunction is appropriate to stop a government official from exercising authority she does not possess. (emphasis added)

And from Plaintiff’s Prayer:

3. To grant an injunction against Marya Crigler, in her capacity as Chief Appraiser of Travis County and against her staff and successors in office,

from determining the schedule or ARB panel selection by which appraisal protests in Travis County will be heard.

a. Crigler’s Motion also incorrectly purports to quote Plaintiffs’ legal action against Crigler as being limited to determining the selection of ARB panels hearing protests:

The only relief Plaintiffs seek against the Chief Appraiser is for this Court to “grant an injunction against Marya Crigler, in her capacity as Chief Appraiser of Travis County and against her staff and successors in office, from determining *the ARB panel selection* by which appraisal protest in Travis County will be heard.” Plaintiffs’ Original Petition and Discovery Requests, p. 17.

Crigler TCPA Motion at ¶ e.21, page 21-22. (emphasis added)

In fact, here is what the sentence Crigler purports to cite from the Prayer in Plaintiffs’ petition actually says, with emphasis on the words Crigler omitted:

3. To grant an injunction against Marya Crigler, in her capacity as Chief Appraiser of Travis County and against her staff and successors in office, from determining *the schedule or* ARB panel selection by which appraisal protests in Travis County will be heard.

Plaintiffs’ Original Petition at ¶ b.3 at page 17.

b. At ¶ 27, page 25 of her Motion, Crigler doubles-down in the misrepresentation of Plaintiffs’ pleading—which suggests that Crigler’s misrepresentation to the Court is deliberate—again omitting Plaintiffs’ complaint that Crigler is scheduling the ARB hearings, which she has no authority to do:

Plaintiffs contend that the Chief Appraiser acted ultra vires because *they contend that the TARB panels were not randomly assigned to hear their protests* as required by section 41.66(k) of the Tax Code. Plaintiffs’ Original Petition and Request for Disclosures, ¶ 11.

Crigler’s Motion at ¶ 27, page 25.

But here is what Plaintiff’s ¶ 11 actually says:

11. The Chief Appraiser's tactic of deliberately over-scheduling tax agents for hearings and then dismissing the unreached protests was used on residential protests as well. But the Chief Appraiser (as an opposing party in the ARB hearings) is not authorized by law to do the ARB scheduling or ARB panel assignments which are, by Comptroller rule, supposed to be randomly assigned.

Plaintiffs' Original Petition at ¶ 11, page 9.

c. An important issue in this lawsuit is Plaintiffs allegation that the designated *tax agents* for Plaintiffs were over-scheduled for hearings making it impossible for the agents to attend. For example, the pleadings explain that Protax tax agent Dave Brown was scheduled to be in 5 ARB panels at the same time for over 180 hearings *per day*. To obscure this improper scheduling, Crigler's Motion, at Page 7, Paragraph 13, again misquotes Plaintiffs' petition:

CRIGLER's MOTION:

"13. Although Plaintiffs plead in their Petition that "Plaintiffs Texas Protax and Five Stone were validly appointed as tax agents for each of the Plaintiff property owners as shown in the list included in this Petition," the evidence does not support this allegation. See Plaintiffs' Original Petition and Discovery Requests, ¶ 6.b."

But Plaintiffs pleading at Paragraph 6.b never said *those companies* were appointed as tax agents, as Crigler claims. Here is what the petition actually said in Paragraph 6.b showing the word Crigler omitted from her quote:

"b. Licensed tax agents with Plaintiffs Texas Protax and Five Stone were validly appointed as tax agents for each of the Plaintiff property owners as shown in the list included in this Petition." (emphasis added)

d. Clearly, Plaintiffs' *ultra vires* legal action against Crigler is that Crigler lacks authority to determine the hearing schedule or to select the ARB panel to hear Plaintiffs' appraisal protests. Plaintiffs seek injunctive relief against Crigler acting beyond her authority, particularly as the opposing party in the supposedly neutral and independent ARB panel hearings.

4. Discovery responses from the Defendants were due on November 28, 2018, 50 days after service. On November 21, 2018, Defendant Crigler filed a motion to dismiss the injunction legal action against her under the Texas Citizens Participation Act (TCPA).² Crigler claims that the injunction legal action against her implicates her free speech rights and right to petition even though she is sued solely in her official capacity. TCPA section 27.003(a) grants authority, if the TCPA is applicable, for the party to “file a motion to dismiss *the legal action.*” (emphasis added). TCPA section 27.003(c) says, “Except as provided by Section 27.006(b), on the filing of a motion under this section, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss.” (emphasis added). TCPA section 27.006(b) permits the Court *sua sponte* or by motion showing good cause, to “allow specified and limited discovery relevant to the motion.”

5. Crigler’s Motion asserts that Plaintiffs cannot prove that Crigler has exceeded her authority or that Crigler did anything other than provide clerical assistance to the TARB Chair in scheduling Plaintiffs’ appraisal protest hearings or dismissing Plaintiffs’ protests after the hearings were over-scheduled. Plaintiffs allege that Crigler’s Motion, Affidavit, and exhibits falsely represent the TCAD records regarding scheduling and mask the substantive decision-making role Crigler and her staff took in scheduling the protest hearings.

RELIEF SOUGHT

6. Plaintiffs ask the Court to find that Plaintiffs have good cause to be granted specified and limited discovery from Crigler related to Crigler’s TCPA motion. Plaintiffs seek an Order compelling expedited response from Crigler to certain Interrogatories and Requests for Production (served with the Original Petition) and for Crigler to sit for a deposition (limited to 3 hours) for questions regarding Crigler’s TCPA Motion, Affidavit, and Exhibits. TCPA section 27.006

² Tex. Civ. Prac. & Rem. Code ch. 27.

permits such discovery:

Sec. 27.006. EVIDENCE. (a) In determining whether a legal action should be dismissed under this chapter, the court shall consider the pleadings and supporting and opposing affidavits stating the facts on which the liability or defense is based.

(b) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion.

Once a party proves that the TCPA is applicable (by showing that the pleaded legal action relates to the Defendants right of free speech, petition or right of association) the Plaintiff non-movant must present evidence to avoid dismissal. The TCPA, section 27.005 says:

(c) The court may not dismiss a legal action under this section if the party bringing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question.

(d) Notwithstanding the provisions of Subsection (c), the court shall dismiss a legal action against the moving party if the moving party establishes by a preponderance of the evidence each essential element of a valid defense to the nonmovant's claim.

ARGUMENT & AUTHORITIES

There is Good Cause to Allow Plaintiffs' Discovery Request

7. The underlying lawsuit is about how Plaintiffs' tax appraisal protest hearings were scheduled and how their protests were dismissed without a hearing actually occurring. Crigler's Motion is based on Plaintiffs claim that Crigler exceeded her authority by actually scheduling, and deliberately *over*-scheduling Plaintiffs' protest hearings. Texas Tax Code section 41.45(a) says the supposedly independent and neutral *Appraisal Review Board* will schedule the hearings and, in section 41.66(o) authorizes the ARB Chair to make decisions regarding scheduling or postponing hearings. The only mention of a role for the Chief Appraiser in scheduling is in section 6.43(f) allowing the Chief Appraiser to provide "clerical assistance" to the ARB.

a. While Plaintiffs have enough evidence to bring the lawsuit, most of the evidence of what happened, who did what, and who made what decisions regarding the hearings and protest dismissal resides within the concealed records and the memories of the appraisal district officials. For example, Plaintiffs' Original Verified Petition asserts that Marya Crigler's Chief Deputy Lonnie Henley threatened Dave Brown, the tax agent who represented all of the Protax Plaintiff-property owners in this case, that if Dave Brown did not drop a particular appeal, Henley said "If you don't withdraw, I'll use every means at my disposal to make your life as miserable as possible every time you walk through the Appraisal District's door." Plaintiffs' Original Petition at 6. And Plaintiff Five Stone owner J.P. Krueger said that when, on July 6th, he complained about the hearing schedules and asked who set those schedules, Marya Crigler said "I set all of your hearings." Plaintiff needs some discovery to support its petition.

b. Part of the evidentiary problem comes from the fact that no written notice of the dismissal of the protests was ever given. So far, no contemporaneous documents related to the hearing scheduling have been produced by the Defendants. Crigler's Affidavit attached to her TCAP Motion asserting how hearings were scheduled is at odds with reality of what actually happened, and at least some of the exhibits purporting to show the hearing schedules were not legitimate, contemporaneous "business records" but meta-data on the exhibits show they were not created until October 2018, *after the lawsuit was served*. Plaintiffs must conduct at least some discovery to be able to respond to Crigler's Motion in which she asserts a limited role in the scheduling and purports to state how the scheduling and dismissals were done.³

³ After the Court rules on the discovery issues related to Crigler's TCPA Motion, Plaintiffs will respond on the merits to the motion.

8. There is scant case law interpreting the TCPA phrase “good cause” for allowing discovery in response to a TCPA motion. But it is clear from what case law there is, that, after a TCPA motion to dismiss is filed, Plaintiff-non-movants should be afforded discovery so the Plaintiff can establish the prima facie case for its claims as required by the TCPA. Most importantly, the Court should consider whether the purposes of the TCPA are achieved in granting or denying TCPA discovery.

The TCPA serves a dual purpose. On the one hand, the statute is designed to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law. Tex. Civ. Prac. & Rem. Code Ann. § 27.002 (West 2015). Balanced against those rights, the statute also seeks to protect the rights of persons to file meritorious lawsuits for demonstrable injury. *Id.*; see *D Magazine Partners, L.P. v. Rosenthal*, 529 S.W.3d 429, 433–34 (Tex. 2017) (holding that the TCPA seeks to balance the tension between protecting First Amendment freedoms and preserving the rights of individuals to file meritorious lawsuits).

In re IntelliCentrics, Inc., 02-18-00280-CV, 2018 WL 5289379, at *3 (Tex. App.—Fort Worth Oct. 25, 2018, no pet. h.). In this case, even though she is sued only in her official capacity, Defendant Crigler asserts that her free speech and right to petition are interfered with by Plaintiffs’ pleading that she committed *ultra vires* acts and should be enjoined from doing so.

a. Generally, good cause exists for the limited discovery if the subject of the discovery is relevant and material to claims in the legal action being challenged by the TCPA motion. See *MCR Oil Tools, LLC v. SPEX Offshore, Ltd.*, 3:18-CV-00731-M, 2018 WL 4362695, at *3 (N.D. Tex. Sept. 13, 2018) (“MCR [non-movant] argues that the requested documents are relevant to establishing its alter ego claims, and the Court agrees.”); finding further that other requests for production were permitted under the TCPA discovery because they “would be relevant and material to MCR’s theory as to why these representations were fraudulent.” *Id.* at*5.

b. In *In re SPEX Group US LLC*, the Court said:

Discovery is relevant to the motion to dismiss if it seeks information related to the allegations asserted in the motion. Some merits-based discovery may also be relevant, however, to the extent it seeks information to assist the non-movant to meet its burden to present a prima facie case for each element of the non-movant's claims to defeat the motion to dismiss.

In re SPEX Group US LLC, 05-18-00208-CV, 2018 WL 1312407, at *4 (Tex. App.—Dallas Mar. 14, 2018, no pet.), mandamus dismissed (Mar. 16, 2018). The Court upheld TCPA discovery in this case, saying the Plaintiff “needs the discovery ordered in the TCPA discovery order to meet the prima facie burden imposed by the TCPA.” *Id.* at *5. Likewise, in the present case, Plaintiffs need the discovery specified below.

Authorities Showing Examples of “Specified and Limited Discovery” Approved

9. There are some case opinions demonstrating what has been considered discovery that is appropriately specified and limited under the TCPA.

a. Approved: 5 Requests for Production, seeking 3 years’ worth of documents and communications regarding paid commissions and 10 years’ work records on new accounts. *In re IntelliCentrics, Inc.*, 02-18-00280-CV, 2018 WL5289379 at *6,7 (Tex. App.—Fort Worth, Oct. 25, 2018 no pet.);

b. Upholding Denial of Discovery Motion because Plaintiff made the discovery motion contingent on the Court’s finding that its response was not adequate to defeat the TCPA motion. *Landry’s, Inc. v. Animal Legal Defense Fund*, 14-17-00207-CV, 2018 WL5075116 at *18 (Tex. App.—Houston [14th Dist.] Oct. 18, 2018);

c. Approved: Requests for Production seeking all business status and organization documents showing business relationships among Defendants and patent applications. Giving Defendants 14 days to produce the records. *MCR Oil Tools, LLC v. SPEX Offshore, Ltd.*, 3:18-CV-00731-M, 2018 WL 4362695, at *3, *4 (N.D. Tex. Sept. 13, 2018);

d. Approved: Deposition of 2 of movant’s officers, each for two hours. *In re Bandin*, 556 S.W.3 891, 893-94 (Tex. App.—Houston [14th Dist.]);

e. Approved in part/Disapproved in part: Trial Court approved 21 Requests for Production and depositions of movant’s officer “regarding his declaration in support of the TCPA motion” and deposition of a corporate representative. Because the 21 Requests for Disclosure were not limited to the

TCPA issues (as opposed to broader lawsuit claims), the Court of Appeals vacated the Trial Court's discovery order and ordered the court to "issue a new order limiting discovery as required by the TCPA." *In re SPEX Group US LLC*, 05-18-00208-CV, 2018 WL1312407 at *2, *5 (Tex. App.—Dallas Mar. 14, 2018);

f. Approved: Up to 3-hour deposition of TCPA movant. *Lane v. Phares*, 544 S.W.3d 881, 889 FN 1 (Tex. App.—Fort Worth Feb. 15, 2018);

g. Approved: Deposition of TCPA movant. *Abraham v. Greer*, 509 S.W.3d 609, 613 (Tex. App.—Amarillo Dec. 27, 2016) ("Such discovery may also encompass effort to depose witnesses having relevant information." *Id.* at 616).

Plaintiffs' Request for "Specified and Limited" Discovery Regarding Crigler's Motion

9. Plaintiffs ask only to pursue discovery with Crigler that is relevant to Crigler's TCPA Motion and Crigler's Affidavit with Exhibits. Specifically, Plaintiffs ask the Court to Order Crigler to respond to discovery as follows:

a. Paper Discovery: Require Crigler to respond, within 10 business days after the Court's Order, to the following 10 Interrogatories, 4 Requests for Production, and 1 Request for Admission that were served with the Original Petition (Exhibit CRIGLER-P-1 attached). Crigler's Affidavit and Exhibits either are not responsive to these discovery requests, obfuscates the facts, or substitutes other exhibits than disclose the documents requested:

CRIGLER INTERROGATORY NO. 1: If You assert that You set the ARB panel hearing schedule, or if You provided "clerical assistance" to the ARB, for 2018 appraisal protests by Plaintiff property owners on the PIDs listed in Plaintiffs Original Petition, describe in detail how You determined or suggested which hearings to have on which days and to which ARB panel to assign the hearings. If you used a computer application or program to assist in creating the hearing schedule or suggestions for the hearing schedule for Plaintiffs' protests, include in your response a detailed description of how that computer application or program assigns the protests to particular hearing dates and ARB panels.

CRIGLER INTERROGATORY NO. 2: Identify the person(s) who set the ARB panel hearing schedule, or amendments thereto, for 2018 appraisal protests by Plaintiff property owners on the PIDs listed in Plaintiffs Original Petition.

CRIGLER INTERROGATORY NO. 3: Describe in detail the procedure You employed in

2018 by which appraisal protests were dismissed if the property owner or owner's agent did not appear for the hearing at the time scheduled for the hearing. Include in Your response the identity of the person(s) who decided to dismiss the protests rather than reschedule the hearings and what entries were made on what records to document the protest dismissals.

CRIGLER INTERROGATORY NO. 4: Which licensed tax agent(s) do Your records show was the tax agent for the 46 Commercial Property Owners listed as Plaintiffs along with their PIDs in Plaintiffs' Original Petition?

CRIGLER INTERROGATORY NO. 5: Which licensed tax agent(s) do Your records show was the tax agent for the 113 Residential Property Owners listed as Plaintiffs along with their PIDs in Plaintiffs' Original Petition?

CRIGLER INTERROGATORY NO. 6: In setting, or in making recommendations to the ARB for, the 2018 hearing schedule for protests filed by Plaintiff property owners, did You take into consideration who was shown in your records as the licensed tax agent; if so, how did You take that into consideration?

CRIGLER INTERROGATORY NO. 7: In 2018, did You use any different criteria or procedure between residential property and commercial property, in deciding whether to (a) dismiss protests or (b) to support reschedule protests, when the owner or tax agent did not appear as scheduled? If so, explain the legal and factual basis for the difference in criteria or procedure.

CRIGLER INTERROGATORY NO. 8: In 2018, were all protests dismissed if the protest was not heard on the date/time shown on the ARB panel hearing schedule? If not, then explain why Plaintiffs' protests were dismissed but protests by other property owners, or their agents, were not dismissed. If hearings on protests on PIDs, other than the PIDs of Plaintiffs in this case, were rescheduled instead of being dismissed, explain why those protests were rescheduled instead of being dismissed.

CRIGLER INTERROGATORY NO. 9: Identify any document You received from the ARB (or its Chair, Betty Thompson) instructing You to record in the appraisal records, the dismissal of the protests made by property owners (or their agents) who are Plaintiffs in this lawsuit.

CRIGLER INTERROGATORY NO. 10: State the date & time and describe the content (with as much particularity as You reasonably recall) of any oral conversation You (including Marya Crigler or Lonnie Hendry) had with ARB Chair Betty Thompson or any other member of the ARB Board since May 1, 2018 with regarding rescheduling ARB hearings or dismissing protests made by property owners (or their agents) who are Plaintiffs in this lawsuit. If You (including Lonnie Hendry) assert there were no such conversations, please so state under oath in answering this Interrogatory.

CRIGLER REQUEST FOR PRODUCTION 4: Produce a copy of any written procedure or policy that applied in 2018 as to the basis for, and procedure for, dismissing a protest that was timely filed by a property owner or tax agent.

CRIGLER REQUEST FOR PRODUCTION 6: Produce a copy of any correspondence (paper, email, or text) since January 1, 2018 between ARB Chair Betty Thompson or any other member of the Travis Appraisal Review Board and Chief Appraiser Marya Crigler or Chief Deputy Lonnie Hendry where the subject or content of the correspondence pertained to (a) scheduling ARB panel hearings or (b) dismissing protests because the ARB panel hearing(s) was not held or because the owner (or tax agent) was not present for the ARB panel hearing.

CRIGLER REQUEST FOR PRODUCTION 8: Produce a copy of the 2018 ARB panel hearing schedule showing PIDs set for hearing as originally established and produce a copy of any amendments made to the schedule.

CRIGLER REQUEST FOR PRODUCTION 12: Produce a copy of any request You received in 2018 from or pertaining to Plaintiffs for postponement of an ARB hearing or request for rehearing pursuant to Tex. Tax. Code section 41.45 and any response, position, or recommendation You made to ARB Chair Betty Thompson related thereto.

CRIGLER REQUEST FOR ADMISSION 2: You did not send any written notice to each property owner (or their agent) who are Plaintiffs in this lawsuit that their 2018 protest of value, for the PIDs involved in this lawsuit, had been dismissed.

b. Deposition: Permit Plaintiffs to take Crigler’s deposition, for up to 3 hours, within 20 days after receiving the responses to the Paper Discovery, at a mutually agreed time and location, regarding the following topics:

1. Questions regarding the sequence and substance of oral discussions between Crigler (and staff) and TARB Chair Betty Thompson in 2018 regarding scheduling and panel assignments, including alleged “TARB directives for scheduling” (*see e.g.*, Crigler Affidavit at Page 5, ¶ 5).
2. Questions regarding statements in Crigler’s Affidavit and the authenticity of Affidavit Exhibits, and whether contemporaneous “business records” exist regarding the scheduling evidence alleged in the Affidavit.
3. Questions regarding discussions between Crigler (or her staff) and the TARB Board (or Chair Thompson), regarding Plaintiffs request to postpone/re-schedule protest hearings and dismissal of Plaintiffs’ appraisal protests based on “agents for Texas Protax-Austin, Inc. and Five Stone, LLP did not bother to attend at least 135 scheduled protest hearings in July 2018.” (*see* Crigler Exhibit at Page 9, ¶15).

PRAYER

For these reasons, Plaintiffs ask the Court to enter an Order compelling movant, Defendant Marya Crigler, to respond to Plaintiffs' Paper Discovery requests (Interrogatories 1 thru 10; Requests for Production 4, 6, 8, 12; and Request for Admission 2) within 10 business days, and to sit for deposition within 20 days thereafter for up to 3 hours for inquiry regarding topics enumerated above. Plaintiffs' ask the Court to grant them any other relief to which they are entitled by Tex. Civ. Prac. & Rem Code section 27.006(b) or by rule or law.

Respectfully submitted,



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CERTIFICATE OF CONFERENCE

I certify that I conferred with opposing Counsel, Andrea Chan, via emails regarding this motion, and we were unable to resolve the conflict over discovery without intervention by the Court.



Bill Aleshire

NOTICE OF HEARING

Notice is hereby given that the above matter is set for hearing for 1 ½ hours on December 20, 2018 at 2:00 p.m. on the Travis County District Court central docket.



Bill Aleshire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded via electronic filing/service on December 14, 2018 to:

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