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Dustin Banks
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Travis Central Appraisal District

via e-mail to: DBanks@tcadcentral.org

Dear Dustin:

In the Board's February 11 meeting, which I observed on Zoom, a motion was passed to allow Board oversight of all requests for per-diem payments for participation in non-protest matters. The motion did not address how this oversight function would be carried out, which leaves some important questions to be dealt with.

The term "oversight" itself is ambiguous, but the usual meaning of the word does not include "approval". At the time, I interpreted the motion as simply providing the Board a means of monitoring how the ARB was spending the funds allocated to it. This makes sense as a part of the Board's overall responsibility for its budget. The District, however, does not control the administrative activities undertaken by the ARB in the necessary conduct of its statutory responsibilities. Neither does it have the authority to withhold compensation for such activities.

The ARB, largely through its officers, must perform many necessary duties besides participation in hearings. Among others, these include:

Scheduling;

Participation in litigation and discovery, including conferences with attorneys, investigation, providing evidence, and attending depositions and hearings;

Responding to public information requests, and filing timely objections where needed;

Developing and updating policies and procedures;

Making determinations not requiring a hearing, such as determination of good cause for postponement or rescheduling under the Code; and

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These administrative activities are essential to the smooth operation of the ARB, especially during the protest season. If the District's Board must review and approve requests for payment for such activities, ARB members will effectively be asked to put in time for which they may or may not receive compensation. They may also have to wait weeks for such remuneration as the Board sees fit to provide. People cannot reasonably be expected to accept such conditions.

I therefore ask you to clarify for the ARB and its members how the District proposes to conduct the oversight responsibility it has assumed. In the event that the District insists on reviewing and approving pay requests for non-hearing-related activities, the ARB requests that a special quorum meeting be scheduled for this review at the end of each pay period, at which the ARB officers may appear and participate.

I must observe, however, that I do not see that the District Board has any statutory authority to approve or disapprove an ARB pay request on a line-item basis, or to refuse to pay such requests out of funds budgeted for that purpose. There is a fine line between the District's budgetary responsibilities and the ARB's duty to hear the protests submitted to it. The Legislature has allowed that line to remain blurry, while at the same time requiring that the two organizations remain independent. It therefore falls upon the organizations themselves to draw the necessary lines and abide by them.

I am also troubled by the fact that budgetary concerns may be leading the District to exceed its statutory authority in the area of scheduling. The Code places scheduling decisions in the hands of the ARB Chair [§41.66(o)], and limits the District's participation to clerical assistance. This is fundamental to the independence of the two organizations. Budgetary concerns should not be permitted to intrude upon this independence, directly or indirectly.

I think we all agree that the 2021 protest season is going to be unusually busy, and I'm glad to see that the District intends to meet with property owners to negotiate informal settlements. That can go a long way toward keeping the formal hearings down to a manageable number. But we will not know until we get into the protest season just how many panels are going to be needed to complete a sufficient number of protests to allow the appraisal roll to be certified timely.

It seems to me that a certain amount of budgetary flexibility will be necessary to cope with this uncertain situation. I am therefore concerned that Ms. Crigler's March 18 letter to Sally Becker and Terry Gaines appears to set firm budgetary and resource boundaries for the ARB. If this results in a significant backlog of unheard protests at the end of the protest season, it will be difficult for the taxing units to set tax rates that will generate sufficient revenues to support the services they provide, while not knowing what the appraisal roll will ultimately look like.

I have heard that Property Tax agents are now very concerned about any policy that would permit dismissal as an "administrative no-show", and from what I hear they are ready to file suit at an

early date to challenge any actions that prevent them from presenting all scheduled protests. It will go a long way toward preventing litigation if the District and the ARB can hammer out their respective scheduling responsibilities ahead of the protest season, and create a budget for the ARB that takes into account the considerable uncertainties of the coming protest season.

Let's work together to find ways to make the system function while respecting each organization's goals. You can reach me at any time at 575-758-5901 or 575-751-4818.

Very truly yours,

Julia Lacy Armstrong

cc Sarah Becker

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