

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	§	<u>201st</u> JUDICIAL DISTRICT

**PLAINTIFFS' FIRST DISCOVERY REQUEST
TO DEFENDANT TRAVIS APPRAISAL REVIEW BOARD**

TO: Defendant Marya Crigler, Chief Appraiser. **SERVED WITH PLAINTIFFS' ORIGINAL PETITION.**

I. Instructions

Plaintiffs serve these Request for Disclosure, Interrogatories, Requests for Production, and Requests for Admission pursuant to Texas Rule of Civil Procedure 194, 197, 196, and 198. Defendant must timely answer each interrogatory separately, fully, in writing, and under oath. Defendant must produce all requested documents (as they are kept in the ordinary course of business or organized and labeled to correspond with categories in each request) that are in Defendant's actual or constructive possession, custody, control, for inspection and copying. Defendant must admit or deny each Request for Admission. Defendant must serve the answers on Plaintiffs' attorney of record, Bill Aleshire, AleshireLAW, P.C., at 700 Lavaca, Suite 1400, Austin, Texas 78701 not more than fifty (50) days after service.

1. All of the Requests must be answered fully and in writing in accordance with Rules 192 and 196 of the Texas Rules of Civil Procedure.
2. For each separately numbered Request below, please delineate each set of responsive Documents so that it can be easily ascertained which Documents relate to which numbered Request(s).
3. If responsive information is contained in data compilations or is stored as electronic, magnetic or computer data from which information or data can be obtained, you are requested to produce the information in hard copy (paper form) and, in addition to produce an electronic native copy of the information including all metadata and to include such information on any reasonably accessible data storage hard drive and to produce instructions on how to access the requested information. If any electronically produced information requires specialized software or other

external applications, please provide a copy of such software or other external application, or identify with specificity the software or other external application required to view the information in its native format.

4. In the event you claim a Request is objectionable or inquiries into privileged matters, please state the nature of the objection or the privilege asserted and the reasons for the objection or the claim of privilege. If a portion of the request is not objectionable, then state the objection to the objectionable portion and respond to the remaining portion of the Request. To the extent any responsive information is withheld on the basis of privilege or any related doctrine, please provide a Privilege Log pursuant to Rule 193.3 of the Texas Rules of Civil Procedure within 15 days of your response to these requests.

5. In the event that any document called for by a Request has been discarded, deleted, or destroyed, that document is to be identified as follows: addressor, addressee, indicated or blind copies, date, subject matter, number of pages, attachments or appendices, all persons to whom distributed, shown or explained, date of disposal or destruction, persons authorizing disposal or destruction and persons discarding or destroying the document. This instruction applies to both hard copy Documents and electronic, magnetic or computer data, including any and all deleted email otherwise responsive to a Request.

6. You are to produce all Documents, as defined below, that are in your actual or constructive possession, custody, or control or in the possession, custody, or control of your respective counsel, agents, or representatives, or which can be obtained through reasonably diligent efforts. Without limiting the term "control," a document is deemed to be within one's control if you have ownership, possession or custody of the document, or the right to secure the document or copy thereof from any person or public or private entity having a physical possession thereof. The terms "(possession, custody, or control)" are to be construed in the broadest manner consistent with Texas law.

7. All duplicates or copies of Documents are to be provided to the extent they have handwriting, additions, or deletions of any kind different from the original document being produced, and vice versa.

8. These Requests shall be deemed continuing so as to require You to produce any additional Documents, objects or tangible things that You discover or obtain between the time that Your responses are served and the time the above-captioned action is concluded.

II. Definitions

The following definitions have the following meanings, unless other required by context:

1. The terms "And" as well as "Or" shall be construed either disjunctively or conjunctively to bring within the scope of these Requests any information which might otherwise be construed to be outside their scope.

2. The terms "Concerning" or "Referring To" or "Relating To" or "Regarding" and their derivations shall mean reflecting, having a relationship to, pertaining to, evidencing, or constituting, in whole or in part, the subject matter of the particular request.

3. "You" or "Your" means Defendant Marya Crigler, including any employee acting or purporting to act on Your behalf, whether individually or collectively.

4. The term "Document" is used in the broadest sense and shall mean all things described in Rule 192.3(d) of the Texas Rules of Civil Procedure and includes, but is not limited to, any and all papers, files, reports, correspondence, summaries, stenographic or handwritten notes, announcements, drafts, and preliminary copies of Documents, transcripts, minutes, studies, memoranda, notes or memoranda of conversations, telephone messages, transmittal slips, printed literature, brochures, catalogues, advertising of all types, test reports, articles, publications, books, pamphlets, pictures, diaries, appointment books, calendars, minute books, by-laws, stock certificates, statistical compilations, telegrams, telexes, cables, teletypes, mailgrams, facsimiles, graphs, charts, surveys, analyses, compilations, movie films, audiotapes, videotapes, microfilms, slides or still films, statistics, data processing cards, computer records, e-mails, computerized instant messages, .txt messages, SMS files, MMS files, computer tapes, printouts, books of account ledgers, journals, spreadsheets, control sheets, working papers, audits, or any writing or documentation or data of any kind or description, whether handwritten, typewritten, printed, copied, microfilmed, printed on computer cards or tapes or data in existence or available or otherwise retrievable, in Your custody, possession, or control of every type and description, regardless of form or nature, pertaining in whole or in part, directly or indirectly, to the matters referred to in the foregoing Requests. Please note that such definition includes electronic or Videotape recordings electronic data and data compilations. As it relates to information that is stored as electronic or magnetic data on a computer, or any other information storage device, the terms "document," "Documents," or "documentation" includes the raw electronic data and software applications necessary to translate the information into useable form as well as any tangible copies or printouts of such information.

5. The term "Communication" means any oral or written utterance, transfer or exchange of information, notation or statement of any nature whatsoever, by or to whomever made, including, but not limited to correspondence, conversations, dialogues, discussions, interviews, consultations, telephone calls, meetings, telexes, cables, agreements, electronic mail, text messages transmitted by cellular telephone, instant messaging, and/or any other understandings, transmitted from You or received by You.

6. "Lawsuit" refers to all of the claims, whether now asserted or asserted hereafter by amendment, supplement, or otherwise, in the above-styled and numbered cause.

7. The term "Petition" refers to the live petition at the time these Requests are served upon you and every amended or supplemental petition served thereafter.

8. The term "Person" means every natural person, association, firm, partnership, corporation, board, committee, agency, commission, legal entity of any form or type, and every other

organization or entity, whether public or private.

9. "Plaintiff" or "Defendant" as well as a party's full or abbreviated name or a pronoun referring to a party, means the party, and where applicable, the party's agents, representatives, officers, directors, employees, partners, corporate agents, subsidiaries, affiliates, or any other person acting in concert with the party or under the party's control, whether directly or indirectly, including any attorney.

10. The term "Produce" means to make available or authorize the obtaining of any requested Documents or other materials for the purpose of inspection and copying by Plaintiff.

11. The plural includes the singular and vice versa.

12. The masculine includes the feminine and vice versa.

13. "Identify" when referring to a person means You must state the following:

- a. The full name.
- b. The present or last known residential address and residential telephone number.
- c. The present or last known office address and office telephone number.
- d. The present occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular interrogatory.
- e. In the case of any entity, identify the officer, employee, or agent most closely connected with the subject matter of the interrogatory and the officer who is responsible for supervising that officer or employee.

"Identify" when referring to a document, means You must state the following:

- a. The nature (e.g., letter, handwritten note) of the document.
- b. The title or heading that appears on the document.
- c. The date of the document and the date of each addendum, supplement, or other addition or change.
- d. The identity of the author and of the signer of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered.
- e. The present location of the document, and the name, address, position or title, and telephone number of the person or persons having custody of the document.

14. The following terms describe matters giving rise to this lawsuit:

- a. "PID" means the account number assigned by the Travis Central Appraisal District to each property owned by Plaintiffs, as listed on the last pages of the Plaintiffs' Original Petition.
- b. "Meeting Notice" means the notice of meeting posted by You as required by Tex. Gov't Code ch. 551, the Texas Open Meetings Act.

REQUEST FOR DISCLOSURE

Under Texas Rule of Civil Procedure 194, Plaintiffs request that defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

INTERROGATORIES

Instruction: Provide your sworn response to the following:

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 INTERROGATORY NO. 11: On June 18, 2018, how many public information requests (under the Texas Public Information Act) did You have pending, *i.e.*, requests for which You were actively collecting responsive records and/or requesting a ruling on disclosure by the Texas Attorney General? Please provide a list (date request received, name of requestor) or, in lieu of a list, provide a copy of each public information request pending on June 18, 2018.

CRIGLER INTERROGATORY NO. 12: Identify each person answering these interrogatories, supplying information, or assisting in any way with the preparation of the answers to these interrogatories.

REQUESTS FOR PRODUCTION

CRIGLER REQUEST FOR PRODUCTION 1: Produce any document or recording that shows that a 2018 ARB panel hearing was commenced, *i.e.*, that the hearing was called to order, for each of the protests by the Plaintiff Property Owners and PIDs that are the subject of this lawsuit.

CRIGLER REQUEST FOR PRODUCTION 2: Produce any document that shows the disposition of any 2018 ARB panel hearing that was commenced for each of the protests by Plaintiff Property Owners and PIDs that are the subject of this lawsuit. This request includes any affidavit or Panel Recommendation signed by ARB panel members regarding disposition of Plaintiffs Property Owners' protests on the PIDs that are the subject of this lawsuit. This request

includes a copy of any notice You sent to each Plaintiff Property Owners or their agents regarding disposition of their protest.

CRIGLER REQUEST FOR PRODUCTION 3: Produce a copy of any computer log, such as a Log History Data File, that shows each change made, after the 2018 Notice of Appraised Value was sent, to the hearing/appraisal protest status or value of each PID listed as the subject of this lawsuit, showing who made each change and the date/time the change in the hearing schedule or protest status was made. If the Log uses codes to indicate the hearing/protest status, provide a legend explaining what each code means.

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 5: Produce a copy of any Meeting Notice of any ARB Board meeting in 2018, and a copy of the minutes of such meetings, at which the ARB Board took action regarding dismissal of protests made by the property owners (or their agents) who are Plaintiffs in this lawsuit.

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 7: Produce a document that shows, as of July 14, 2018, the mathematical calculation on which the ARB Board certified the appraisal roll pursuant Tex. Tax. Code 41.12.

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 9: Produce a copy for 2018 of each of Your appraiser's calendar or schedule that shows the dates, times, tax agent or owner name, and PID(s) in which Your appraiser participated in "Informals" (settlement discussions).

CRIGLER REQUEST FOR PRODUCTION 10: Produce a copy of any correspondence in Your possession (paper or email) since January 1, 2017 that mentions Team Hendry Realty or that bears the URL "@teamhendryrealty.com."

CRIGLER REQUEST FOR PRODUCTION 11: Produce a copy of any written procedure applicable to 2018, including training materials or power-point slides, of changes made in how tax agents participate in "Informals" (settlement discussions with TCAD Staff) and are scheduled for

ARB panel hearings.

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.

REQUEST FOR ADMISSIONS

Defendant is to admit or deny the following statements within 50 days of the service of this request pursuant to TRCP 198:

CRIGLER REQUEST FOR ADMISSION 1: A timely Notice of Protest for 2018 was filed, pursuant to Tex. Tax Code section 41.44 for each PID listed in Plaintiffs' Original Petition in this lawsuit.

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.

Respectfully submitted,



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