

THE ATTORNEY GENERAL

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Requests for Opinions

RQ-0554-KP

Requestor:

Ms. Cheryl A. Jones

Wichita County Auditor

600 Scott Street, Suite 201

Wichita Falls, Texas 76301-2531

Re: Application of Government Code chapter 573 and several provisions of the Election Code to a county election administrator who is the spouse of a county commissioner (RQ-0554-KP)

Briefs requested by September 5, 2024

RQ-0555-KP

Requestor:

The Honorable Keith L. Cook

Leon County Attorney

Post Office Box 429

Centerville, Texas 75833

Re: Authority of the Health and Human Services Commission to regulate and license providers of Individualized Skills and Socialization services under chapter 103 of the Human Resources Code or other law (RQ-0555-KP)

Briefs requested by September 5, 2024

RQ-0556-KP

Requestor:

Ms. Kimberly M. Buchanan, CPA

Tarrant County Auditor

100 East Weatherford, Room 506

Fort Worth, Texas 76196-0103

Re: Authority of the Texas Supreme Court to require district and county clerks to integrate their case management systems with the proprietary re:SearchTX database (RQ-0556-KP)

Briefs requested by September 12, 2024

RQ-0557-KP

Requestor:

The Honorable Janna Lindig

Bandera County Attorney

Post Office Box 656

Bandera, Texas 78003

Re: Authority of a county commissioners court to enact an order penalizing a dog owner for a public nuisance due to the dog's excessive barking (RQ-0557-KP)

Briefs requested by September 12, 2024

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202403705

Justin Gordon

General Counsel

Office of the Attorney General

Filed: August 13, 2024



Opinions

Opinion No. KP-0471

The Honorable Lisa Pence

Erath County Attorney

298 South Graham Avenue

Stephenville, Texas 76401

Re: Whether section 6.05(f) of the Tax Code bars the continued employment of the Chief Appraiser if his sibling is elected as the County Tax Assessor/Collector (RQ-0530-KP)

S U M M A R Y

Tax Code subsection 6.05(f) prohibits the chief appraiser of a tax appraisal district from employing any individual related to a member of the appraisal district board of directors within the second degree by affinity or within the third degree by consanguinity. A court would likely conclude that subsection 6.05(f) does not apply to the appraisal district board of directors' continued employment of a chief appraiser whose sibling begins serving as a member of the appraisal district board of directors.

The chief appraiser's continued employment could, however, violate the nepotism prohibition in Government Code section 573.041 unless the chief appraiser's sibling serves as a nonvoting member of the appraisal district board of directors or the chief appraiser's employment falls under the continuous employment exception set forth in section 573.062. If the chief appraiser's employment falls under the continuous-employment exception, his sibling may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the chief appraiser.

Opinion No. KP-0472

The Honorable John L. Forrest, Jr.

Parker County Attorney

101 North Main Street

Weatherford, Texas 76086

Re: Whether Texas Property Code section 52.002 requires a district clerk to prepare an abstract of judgment rendered by a court of appeals (RQ-0531-KP)

S U M M A R Y

Texas Property Code subsection 52.002(a) governs the preparation of an abstract of judgment for purposes of creating a judgment lien, requiring in relevant part that, among others, the clerk of the court in which the judgment is rendered must prepare the abstract. Where the Second Court of Appeals of Fort Worth vacated the judgment of the 415th District Court of Parker County and dismissed the case for lack of jurisdiction, the district court's judgment ceased to exist. Therefore, the Parker County District Clerk is not "the clerk of a court in which the judgment is rendered" in the situation described and a court would likely conclude that subsection 52.002(a) does not obligate her to prepare an abstract of judgment.

Opinion No. KP-0473

The Honorable Brian Birdwell

Chair, Senate Committee on Natural Resources & Economic Development

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Calculation of "average land value" under Local Government Code section 212.209 (RQ-0535-KP)

S U M M A R Y

Local Government Code chapter 212, subchapter H, establishes a statutory framework related to multifamily, hotel, or motel development in certain large municipalities. Under this framework, a municipality may require a portion of a landowner's property to be dedicated for parkland use, impose a parkland dedication fee, or both require the dedication and impose the fee. Within subchapter H, subsection 212.209(c) requires appraisal districts in which a municipality is wholly or partly located to calculate the "average land value for each area or portion of an area." The "land value" refers to the total "market value" of land within each municipally designated suburban area, urban area, or central business district area located wholly or partially within the appraisal district. A court would likely conclude that the "average land value" is obtained by dividing the land value in each partial or whole area within the district by the total acres within the same area.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

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Justin Gordon

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Office of the Attorney General

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