

Via Certified Mail #70073020000124365068

Tom Granger
Chairman Travis County Appraisal District Board of Directors
700 Lavaca, Suite 740
Austin, Texas 78701-3102

July 29, 2008

Dear Mr. Granger,

I am forwarding this recent communication sent to TCAD Chief Appraiser Patrick Brown. As Chairman of the Travis County Board of Directors, I believe you may be interested in knowing about any action and/or decision not to take action regarding this information presented to the Travis County Chief Appraiser about a public official.

Sincerely,

Susan Bushart
402 Inwood Road
Austin, Texas 78746
512-329-6708

cc.

Patrick Brown, TCAD Chief Appraiser
Blanca Zamora-Garcia
Nelda Wells Spears
Nash Martinez
Eleanor Powell
Richard Lavine
Kristoffer S. Lands
James Adkins
June J. Kunkel
Hugh Farmer

From: susan bushart <sbushart@austin.rr.com>

Date: July 25, 2008 1:21:17 PM CDT

To: tax_info@tcadcentral.org

Subject: attention Patrick Brown re: Omitted Property Tax Code Section 25.21

via electronic transmission and certified mail return receipt requested
70070710000001541450

Patrick Brown Chief Appraiser
Travis County Appraisal District
8314 Crosspark Drive
Austin, Texas 78754

July 25, 2005

Dear Mr. Brown,

Please accept this letter as formal written notification pursuant to Texas Tax Code Section 25.21 Omitted Property, that the property located in Travis County at 809 Knollwood Drive, property ID#115379, appears to have been inaccurately appraised resulting in the loss of significant tax revenue due to the Eanes Independent School District.

Earlier this month I obtained copies of public documents maintained by your office that reflect significant additions, improvements and renovations to this residential property beginning in October of 2004. Despite several comments in TCAD records by your office's appraisers, for some reason, the property description was not changed to reflect those improvements. The appropriate and accurate square footage was not added until the recent sale of the property. It is my opinion, the value appraised prior to the sale this past month, may not have been appropriately assessed. Please review the appraisal record for the five years preceding this communication while investigating this concern. Please note, a septic upgrade permit application on record with Travis County Department of Transportation and Natural Resources dated July 20, 2005 reflects HVAC square footage of 5100 SF. This illustrates a large discrepancy between the real property in existence, and your office's appraisal description on that date. This discrepancy was still evident through June 2008 despite numerous visits to the property recorded by the TCAD appraisal staff in this property's file maintained by your office.

As a taxpayer in the Eanes Independent School District, I am formally requesting, that you investigate these concerns as it appears this is a requirement of the Chief Tax Appraiser. I have attached, notes from the tax code below, indicating that your duty to do so is mandatory, rather than discretionary.

I am asking for your formal letter of finding upon completion of this requested investigation. If it is your opinion, that your records do not reflect omitted property as defined in the Texas Tax Code Section 25.21, please provide your written determination of that fact to include the reasons for that finding.

Thank you,

Susan Bushart
402 Inwood Road
Austin, Texas 78746

ATTACHMENT:

Sec. 25.21. Omitted Property.

(a) If the chief appraiser discovers that real property was omitted from an appraisal roll in any one of the five preceding years or that personal property was omitted from an appraisal roll in one of the two preceding years, he shall appraise the property as of January 1 of each year that it was omitted and enter the property and its appraised value in the appraisal records.

(b) The entry shall show that the appraisal is for property that was omitted from an appraisal roll in a prior year and shall indicate the year and the appraised value for each year.

Amended by 1981 Tex. Laws (1st C.S.), p. 161, ch. 13, Sec. 109; amended by 1991 Tex. Laws, p. 1417, ch. 367, Sec. 1, and 1991 Tex. Laws, p. 2891, ch. 836, Sec. 1.2.

Cross References:

Erroneously allowed exemptions, see Sec. 11.43(i).

Supplemental appraisal records, see Sec. 25.23.

Calculation of tax on omitted property, see Sec. 26.09.

Notes:

The chief appraiser's duty to back assess property omitted from the appraisal roll whenever an error is discovered is mandatory and not discretionary. A taxing unit may sue the chief appraiser who fails to perform this duty. Back assessment for an erroneously granted exemption is a current year tax, and it is not subject to a taxing unit filing a challenge in the tax year in question. *Atascosa County v. Atascosa County Appraisal District*, 990 S.W.2d 255 (Tex. 1999).

Notices of appraised value met Section 25.19 requirements and properly notified property owner of omitted property for the change in appraised value. The property owner should have been on notice of a tax change when he constructed a large

improvement on property and his original property tax bill did not change, and the owner failed to introduce evidence that the tax notices had not been sent. *Escamilla v. City of Laredo*, 9 S.W.3d 416 (Tex. App. - San Antonio 1999, pet. denied).

A recent statutory amendment reducing the period for adding omitted property to the tax roll from ten years to five years was retroactive. An appraisal district may add improvements to the appraisal roll as omitted property even if the taxpayer had timely filed a rendition form describing the property. *Harris County Appraisal District v. Reynolds/Texas, J.V.*, 884 S.W.2d 526 (Tex. App.-El Paso 1994, rehearing overruled).

Fraud by a taxpayer in its rendition of business personal property voided the appraisal district's initial assessment; thus, all of the property escaped taxation for the purposes of Sec. 25.21. *Beck & Masten Pontiac-GMC, Inc. v. Harris County Appraisal Dist.*, 830 S.W.2d 291 (Tex. App.-Houston [14th Dist.] 1992, writ denied).

Building erroneously excluded from appraisal records could be added to the appraisal roll as omitted property, even though the appraisal records already listed a value for improvements. *El Paso Central Appraisal District v. Montrose Partners*, 754 S.W.2d 797 (Tex. App.-El Paso 1988, writ denied).

Property mistakenly granted an exemption from taxation under Sec. 11.01(d) could be back assessed as omitted property under provisions of Sec. 25.23. *Friedrich Air Conditioning and Refrigeration Company v. Bexar Appraisal District*, 762 S.W.2d 763 (Tex. App.-San Antonio 1988, no writ).

Where improvement was omitted, appraisal district had authority to add it to roll under this section, even though taxpayer had paid taxes on land. *Cameron County Appraisal Review Board v. Creditbanc Savings Association*, 763 S.W.2d 577 (Tex. App.-Corpus Christi, 1988).

The fact that real property had not been assessed in prior years was a condition precedent for a back assessment. *Yamini v. Gentle*, 488 S.W.2d 839 (Tex. App.-Dallas 1972, writ ref'd n.r.e.).

A back assessment made without giving the taxpayer notice and an opportunity to be heard was void. *Republic Ins. Co. v. Highland Park Independent School District*, 171 S.W.2d 342 (Tex.

Comm'n App. 1943).

A corporation that locates property omitted from the appraisal rolls may be organized, but no taxing unit may enter a contingent fee, tax ferret contract with the corporation. Op. Tex. Att'y Gen. No. JC-290 (2000).

Real property upon which ad valorem taxes were duly assessed and paid may not be back assessed on the ground that the land was undervalued for tax purposes. Op. Tex. Att'y Gen. No. C-781 (1966).