

Authority of attorney

City council possessed quasi-judicial power for purposes of determining whether law firm's allegedly defamatory statements about competitor law firm's performance in collecting past due ad valorem taxes before city council, were protected by absolute privilege under the doctrine of quasi-judicial immunity, in law firm's action against competitor law firm for defamation, tortious interference, business disparagement, and conspiracy, where city code explicitly conferred on council power to hear and ascertain facts, and power to subpoena and examine witnesses, tax code conferred on city power to determine who represented the city to enforce collection of delinquent taxes, and local government code conferred to city power to

enforce and impose penalties. *Perdue, Brackett, Flores, Utt & Burns v. Linebarger, Goggan, Blair, Sampson & Meeks, L.L.P.* (App. 2 Dist. 2009) 291 S.W.3d 448, rehearing overruled. Libel and Slander ⇌ 36

Fees and costs of collection

A taxing unit that has contracted with an attorney to collect delinquent taxes is authorized to impose a penalty not to exceed 15% against the delinquent taxpayers to cover the attorney's compensation; the taxing unit may not apply any part of the penalties collected to any additional costs of collection which it incurs, but must use all the assessed penalties solely to compensate the attorney with whom it contracted. (1988) Tex. Atty. Gen. Op., No. JM-857.

SUBCHAPTER C. APPRAISAL REVIEW BOARD

§ 6.41. Appraisal Review Board

(a) The appraisal review board is established for each appraisal district.

(b) The board consists of three members. However, the district board of directors by resolution of a majority of its members may increase the size of the appraisal review board to the number of members the board of directors considers appropriate.

(c) To be eligible to serve on the board, an individual must be a resident of the district and must have resided in the district for at least two years.

(d) Except as provided by Subsection (d-1), members of the board are appointed by resolution of a majority of the appraisal district board of directors. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(d-1) In a county with a population of 3.3 million or more or a county with a population of 550,000 or more that is adjacent to a county with a population of 3.3 million or more the members of the board are appointed by the local administrative district judge in the county in which the appraisal district is established.

(d-2) A local administrative district judge making appointments under Subsection (d-1) may make such appointments directly or may, by written order, appoint from three to five persons to perform the duties of appraisal review board commissioner. If the local administrative district judge chooses to appoint appraisal review board commissioners, each commissioner shall possess the same qualifications as those required of an appraisal review board member.

(d-3) The local administrative judge making appointments under Subsection (d-1) shall cause the proper officer to notify such appointees of such appointment, and when and where they are to appear.

(d-4) If appraisal review board commissioners are appointed under Subsection (d-2), they shall meet as directed by the local administrative district judge in order to complete their duties.

(d-5) The appraisal district of the county shall provide to the local administrative district judge, or to the appraisal review board commissioners, as the case may be, the number of appraisal review board positions that require appointment and shall provide whatever reasonable assistance is requested by the local administrative district judge or the commissioners.

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(d-6) An appraisal review board commissioner is not disqualified from serving as a member of the appraisal review board.

(d-7) If appraisal review board commissioners are appointed under this section, the commissioners shall return a list of proposed appraisal review board members to the local administrative district judge at a time directed by such local administrative judge, but in no event later than January 1 of each year. Such list shall be composed of no less than five (5) names in excess of the number of appraisal review board positions to be filled by the local administrative district judge. The local administrative judge may accept the proposed names, or reject the proposed list and return the proposed list to the commissioners upon which the commissioners shall propose a revised list until the local administrative judge accepts the list.

(d-8) Any appraisal review board commissioners appointed pursuant to this section shall hold office for a term of one year beginning January 1. A commissioner may be appointed to successive terms at the discretion of the local administrative district judge.

(d-9) Upon selection of the individuals who are to serve as members of the appraisal review board, the local administrative district judge shall enter an appropriate order designating such members and setting each member's respective term of office, as provided elsewhere in this section.

(e) Members of the board hold office for terms of two years beginning January 1. The appraisal district board of directors by resolution shall provide for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial or subsequent appointments, the board of directors or the local administrative district judge or the judge's designee shall designate those members who serve terms of one year as needed to comply with this subsection.

(f) A member of the board may be removed from the board by a majority vote of the appraisal district board of directors, or by the local administrative district judge or the judge's designee, as applicable, that appointed the member. Grounds for removal are:

(1) a violation of Section 6.412, 6.413, 41.66(f), or 41.69; or

(2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by a majority of the appraisal district board of directors.

(g) Subsection (a) does not preclude the boards of directors of two or more adjoining appraisal districts from providing for the operation of a consolidated appraisal review board by interlocal contract.

(h) When adjoining appraisal districts by interlocal contract have provided for the operation of a consolidated appraisal review board:

(1) a reference in this or another section of this code to the appraisal district means the adjoining appraisal districts;

(2) a reference in this or another section of this code to the appraisal district board of directors means the boards of directors of the adjoining appraisal districts;

(3) a provision of this code that applies to an appraisal review board also applies to the consolidated appraisal review board; and

(4) a reference in this code to the appraisal review board shall be construed to also refer to the consolidated appraisal review board.

Acts 1979, 66th Leg., p. 2231, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 29, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 796, § 11, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 597, § 107, eff. Sept. 1, 1991; Acts 1991, 72nd Leg.,

2nd C.S., ch. 6, § 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 154, § 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 299, § 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1039, § 4, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 639, § 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 354, § 1, eff. Jan. 1, 2002; Acts 2001, 77th Leg., ch. 1430, § 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 408, § 1, eff. Jan. 1, 2004; Acts 2009, 81st Leg., ch. 970, § 1, eff. Jan. 1, 2010; Acts 2009, 81st Leg., ch. 1267, § 2, eff. Jan. 1, 2010; Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 112, eff. Sept. 1, 2011.

Cross References

Appraisal district board of directors, see V.T.C.A., Tax Code § 6.03.

Auxiliary board members in certain counties, see V.T.C.A., Tax Code § 6.411.

Eligibility restrictions on board members, see V.T.C.A., Tax Code § 6.412.

Hearing procedures, see V.T.C.A., Tax Code § 41.66(g).

Interest in certain contracts prohibited, see V.T.C.A., Tax Code § 6.413.

Meetings, organization, and compensation of appraisal review board, see V.T.C.A., Tax Code § 6.42.

Temporary review board member to replace one for communicating outside of a hearing, see V.T.C.A., Tax Code § 41.66(g).

Notes of Decisions

Validity

A court would probably conclude that the 1997 amendment to V.T.C.A., Tax Code § 6.41(c) and V.T.C.A., Tax Code § 6.412(c) in toto is not unconstitutional under either Vernon's Ann. Tex. Const. Art. I, § 19 or Art. III, § 56. (1997) Tex. Atty. Gen. Op., No. DM-462.

Nature of board

Although county appraisal review board is appointed by appraisal district's board of directors, appraisal district and review board are separate and distinct bodies. *Corchine Partnership v. Dallas County Appraisal Dist.* (App. 5 Dist. 1985) 695 S.W.2d 734, ref. n.r.e.. Taxation ⇌ 2653

County appraisal district and appraisal review board are separate and distinct bodies. *Towne Square Associates v. Angelina County Appraisal Dist.* (App. 9 Dist. 1986) 709 S.W.2d 776. Taxation ⇌ 2655

Eligibility

On and after January 1, 1998, V.T.C.A., Tax Code § 6.41(c) limits appraisal review board membership on a board affiliated with a county that has over 300,000 people, while V.T.C.A., Tax Code § 6.412(c) applies to appraisal review boards affiliated with the remaining, smaller counties. (1997) Tex. Atty. Gen. Op., No. DM-462.

V.T.C.A., Tax Code § 6.41(c) applies to former officers and former employees of any taxing unit, as defined by V.T.C.A., Tax Code § 1.04(12), while V.T.C.A., Tax Code § 6.412(c) applies to former officers and employees only of taxing units for which the appraisal district appraises property. (1997) Tex. Atty. Gen. Op., No. DM-462.

Whether the political subdivision the appraisal review board appointee served has ceased to be a taxing unit since the appointee's tenure is irrelevant to a determination of eligibility. (1997) Tex. Atty. Gen. Op., No. DM-462.

For purposes of V.T.C.A., Tax Code § 6.41(c) and V.T.C.A., Tax Code § 1.04(12), an officer is an individual upon whom a sovereign, governmental function is conferred, to be exercised by him or her for the benefit of the public largely independent of others' control. (1997) Tex. Atty. Gen. Op., No. DM-462.

For purposes of V.T.C.A., Tax Code § 6.41(c) and V.T.C.A., Tax Code § 1.04(12), an employee is an individual who works, under an express or implied contract, for the employer at the employer's direction and control and who is compensated for services rendered, including both full- and part-time workers, but not including a volunteer who is not an officer. (1997) Tex. Atty. Gen. Op., No. DM-462.

§ 6.411. Ex Parte Communications; Penalty

(a) A member of an appraisal review board commits an offense if the member communicates with the chief appraiser or another employee or a member of the board of directors of the appraisal district for which the appraisal review board is established in violation of Section 41.66(f).