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BULLETIN

To: MVBA appraisal district clients –
Re: letter from property owner representative regarding agencies

You may have recently received a letter from a statewide organization representing property owners (the representative) in which the representative advises you that it will be filing designation of agencies for many property owners without the property owner signing the designation and be otherwise representing property owners without necessarily filing designations of agency immediately.

Thus, you may be receiving designations of agency signed by someone other than the property owner, and probably signed by the designated agent designating itself. That will, obviously, present you with the problem of determining whether the designation is valid. Furthermore, the representative may be contacting you regarding properties for which it has not provided you any designation of agency. You will then need to determine how to react to these circumstances.

The decision about how to regard such situations becomes acute because if the appraisal district refuses to accept designations of agency signed by parties such as the representative when there is reasonable indication that the property owner has authorized the representative to do so, there is a risk of litigation resulting with adverse consequences. For example, if because of the district's refusal to recognize such an agency designation, the property owner fails to receive an ARB hearing, that property owner might sue pursuant to § 41.45(f) to force the ARB to hold a hearing and recover its attorney fees for so doing. On the other hand, if the district fails to receive any type of reasonable indication that the representative is acting with authority for the property owner and reaches some arrangement with the representative on behalf of that property owner, that property owner might later sue to reverse that outcome on the grounds that the district had no reasonable basis on which to rely on the representative being an agent for the property owner. Perhaps worse, the CAD might reveal confidential information to an unauthorized person.

As is indicated in the letter from the representative, particularly pursuant to Attorney General Opinion GA-0589, it is possible that a party such as the representative could sign a designation of agency on behalf of a property owner designating itself as the agent. That is because TEX. PROP. TAX CODE § 1.111(a) authorizes not only the property owner but also the property owner's agent or property manager to sign a designation of agency form. Therefore, if a property owner names the representative its agent in an informal way, then the representative may sign the official form designating itself as an agent for property tax purposes.

Pursuant to § 1.111, you are within your rights to insist that a designation of agency form be on file before dealing with the representative for any particular property owner. While you cannot insist that a designation of agent form be signed by the property owner, you can and should insist that a representative at least file a form that he has signed himself or that has been signed by someone else claiming the authority to sign. You should further see something that reasonably leads you to believe that the signor is in fact an agent of the property owner. *Biggs v. United States Fire Ins. Co.*, 611 S.W.2d 624, 629 (Tex. 1991); *Suarez v. Jordan*, 35 S.W.3d 268 (Tex. App. - Houston [14th Dist.] 2000, no petition); *Argyle Indep. School Dist. v. Wolf*, 234 S.W.3d 229 (Tex. App. - Fort Worth, 2007, no petition).

When the form is signed by someone other than the property owner, you should consider contacting the property owner to verify the representative's authority, or at least asking the representative to provide you the authorization directly from the property owner. You should certainly do so before reaching any agreement with the representative or revealing any confidential information to the representative. If someone on the appraisal district's staff knows the property owner personally, that person could simply call the property owner to confirm the representative's authority and then make a brief record of the call. E.g., "I know Mr. Smith personally and I called him at 9:30 a.m. on May 20 at (111) 111-1111. He confirmed that Ms. Jones is his authorized agent." If no one on your staff knows the property owner, you might seek a signed statement, a note on letterhead from the property owning organization, or at least an e-mail with a signature block on it. Attached is a sample of a letter you might send to the property owner, as well as a form you might ask the property owner to return.

If you need further direction, please do not hesitate to contact me.

Kirk Swinney

DKS:msh

CAD letterhead

Date

[property owner name]
[address]

Re: [property account number and description]

Dear [property owner]:

We have recently received the enclosed designation of agency form indicating that [representative] is to be your agent regarding certain property tax matters described in that designation. However, we do not have direct information from you that you have authorized the one who signed that form to do so. Would you please let us know whether you authorized the person or entity who signed the form on your behalf to do so? I have enclosed a form for your convenience in so doing. Please check the appropriate blank in the form, sign it, date it, and fax, mail, or e-mail it to me at the above contact information. Before we can deal with the designated agent you must confirm that he or she actually has the authority to represent you.

Thank you very much.

Sincerely yours,

[CAD staff person]

Enc. [signed agency form and reply form]

Cc: [representative who signed the agency form]

TO: [CAD], attention [staff person]

FROM: [property owner]

DATE:

I ___authorized ___ did not authorize [person or company who signed the form] to sign on my behalf the designation of agency form which you recently forwarded to me.

[property owner]