



## TAXING MATTERS NAVIGATING THE EVER-EVOLVING LANDSCAPE OF PROPERTY TAXES

### CASELAW UPDATE - SECOND QUARTER 2025

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#### TEXAS SUPREME COURT

**A PROPERTY OWNER WHOSE DUE PROCESS RIGHTS WERE VIOLATED BY DEFECTIVE SERVICE IN A TAX FORECLOSURE MUST ACT WITHIN THE REDEMPTION PERIOD IF THEY RECEIVE ACTUAL NOTICE OF THE FORECLOSURE ACTION DURING THAT TIME—LACHES MAY BE RAISED AS A DEFENSE TO A SUIT TO SET ASIDE A FORECLOSURE IF ACTUAL NOTICE WAS RECEIVED AFTER THE STATUTORY REDEMPTION PERIOD HAS EXPIRED**

*Thompson v. Landry, 2025 WL 1350003, No. 23-0875 (Tex. May 9, 2025).*

A 12-acre tract was judicially foreclosed for non-payment of property taxes. The taxing authorities, unable to locate the record owner—who had died more than 20 years earlier—served citation by posting at the courthouse. The heir of the owner, who was residing on the property, was not named in the lawsuit or served with process. A default judgment was entered, and the property was sold at a tax foreclosure sale. The purchaser paid property taxes on the tract for the next ten years, during which time the heir's husband paid rent to the

purchaser. Ten years after the foreclosure judgment, the heir sued to set it aside, arguing the judgment was void because the taxing authorities failed to serve her with notice of the delinquent tax lawsuit.

The Texas Supreme Court had previously held that tax foreclosure judgments obtained in violation of due process rights are void. However, that precedent did not address the rights of innocent third-party purchasers. In this case, the purchaser argued that the heir’s challenge was barred because she failed to act within the two-year redemption period for homestead properties. She also asserted the equitable defense of laches prevented the claim. The Court held that if a person receives actual notice of a constitutionally defective foreclosure during the redemption period, they must assert their challenge within that timeframe. If actual notice is received after the redemption period has expired, equitable defenses such as laches may apply. Because a factual dispute remained as to when the heir received notice, the Court remanded the case for further proceedings.

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**TEXAS COURTS OF APPEALS**

**DISMISSAL FOR LACK OF JURISDICTION WAS PROPER WHERE TAXPAYERS CHALLENGED MASS APPRAISAL PRACTICES OUTSIDE THE TEXAS TAX CODE’S REMEDIES AND FAILED TO ALLEGE A PARTICULARIZED INJURY DISTINCT FROM OTHER TAXPAYERS**

*Vexler v. Spencer, 2025 WL 1271691, No. 02-24-00305-CV (Tex. App.-Fort Worth, May 1, 2025, no pet. h.) (mem.op.).*

Taxpayers filed suit challenging both their individual appraisals and the broader mass appraisal practices of the appraisal district. They alleged that the district and its chief appraiser used valuation methods that flagrantly violated multiple provisions of the Uniform Standards of Professional Appraisal Practice (USPAP). They also argued that the statutory authorization for mass appraisal under the Texas Tax Code was facially unconstitutional. Characterizing the conduct as ultra vires, they contended that their claims fell outside the Tax Code’s exclusive remedies and sought various forms of relief, including declaratory and injunctive relief.

The court of appeals affirmed the trial court’s dismissal for lack of jurisdiction. It held that the taxpayers were required to pursue the exclusive remedies provided under the Texas Tax Code—such as administrative protest and judicial review—because their complaints fell squarely within the scope of relief authorized by the Code.

The court further found that the plaintiffs lacked standing to assert their constitutional claims, as they had not alleged a particularized injury distinct from the generalized grievances shared by all taxpayers in the county—an essential requirement for asserting such claims.

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**TAXPAYER NOT ENTITLED TO CORRECTION OF APPRAISAL ROLLS WHERE NO EVIDENCE OF DOUBLE APPRAISAL EXISTED AND PROPERTY PHYSICALLY EXISTED IN COUNTY DESPITE CLAIMED LOCATION ERROR**

*J-W Power Co. v. Henderson County Appraisal District, 2025 WL 965963, No. 12-22-00325-CV (Tex. App.-Tyler, March 31, 2025, pet. filed) (mem. op.).*

Taxpayer, which owned and leased natural gas compressors, stored those compressors in various yards—including in Gregg County—when they were not under lease. During the 2013–2016 tax years, the Henderson County Appraisal District assessed and taxed certain compressors located in Henderson County as business personal property. Taxpayer filed protests each year challenging their taxability in Henderson County, but the protests were

denied, and Taxpayer did not pursue an appeal. In early 2018, after the decision by the Texas Supreme Court in *EXLP Leasing LLC v. Galveston Central Appraisal District* (which held that leased heavy equipment inventory should be appraised at the dealer’s storage location), Taxpayer filed motions under §25.25(c)(2) and (3) seeking retroactive correction of the appraisal rolls. Taxpayer argued that the appraisal district had subjected the compressors to double taxation—once in Henderson County as business personal property and again in Gregg County as inventory—and that the compressors did not “exist” in the form or location described on the appraisal rolls.

The Court of Appeals held that Taxpayer failed to satisfy both §25.25(c)(2) (“multiple appraisals”) and (c)(3) (“form or location”) prongs. As to the first prong, the court found no evidence of double appraisal because Taxpayer did not show that the compressors were also actually appraised by the Gregg County Appraisal District during the relevant years. As to the second, the court concluded that §25.25(c)(3) did not apply because the compressors physically existed in Henderson County, even if they were incorrectly taxed there.

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**APPRAISAL REVIEW BOARD ERRED WHEN IT DISMISSED THE LATE PROTEST OF A PURCHASER OF PROPERTY WHO WAS NOT SENT A NOTICE OF REMOVAL OF OPEN SPACE LAND VALUATION**

*Long v. Atascosa Central Appraisal District, 2025 WL 1241900, No. 04-24-00217-CV (Tex. App.-San Antonio, April 30, 2025, no pet. h.) (mem. op.).*

The owner of property receiving a 1-d-1 open-space valuation died on December 31, 2021. The land was inherited and sold by the heir the following month. In March, the appraisal district mailed a notice of removal of the open-space valuation to the heir, but not to the new owner. In May, it sent a notice of appraised value to the new owner, showing a market value assessment and \$0 under the open-space land category. The purchaser did not learn that the special valuation had been removed until he received his tax bill in the fall. He promptly filed a late protest under Section 41.411 of the Tax Code, citing the appraisal district’s failure to deliver notice. Rather than address that claim, the appraisal review board dismissed the protest, reasoning that the purchaser had failed to timely protest after receiving the May notice of value.

The court of appeals reversed, holding that the purchaser was entitled to a determination on his claim that the appraisal district failed to notify him of the removal of the special valuation—a failure that, if proven, would have deprived him of the opportunity to be heard. The court found that the dismissal was improper under Section 41.411, which protects due process rights when required notices are not delivered. The appraisal district also argued that the purchaser wasn’t entitled to the valuation because he failed to file a new application. The court rejected that argument, explaining that the failure to apply was itself the result of the district’s failure to notify him—thus triggering the very protections 41.411 was designed to afford.

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**TEXAS ATTORNEY GENERAL OPINIONS**

**A TAXING UNIT THAT DOES NOT IMPOSE A COLLECTION PENALTY, EVEN THOUGH AUTHORIZED TO DO SO, MAY STILL RECOVER ATTORNEY’S FEES IN A DELINQUENT TAX COLLECTION LAWSUIT**

*Tex. Att’y Gen. Op. KP-0483 (2025).*

Although taxing units may not recover attorney’s fees from delinquent taxpayers both under the Texas Tax Code’s collection penalty provision and as court costs in a judgment, they may

recover attorney's fees if they do not impose the collection penalty, such as by filing suit before penalties would otherwise attach.

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