

Date: August 13, 2012

Division: Finance

Subject: School District's Eminent Domain Authority

Background Information:

- Pursuant to Senate Bill 18 enacted by the 82nd Legislature, effective September 1, 2011, all public and private entities authorized to exercise the power of eminent domain in Texas are required to submit a letter to the Comptroller of Public Accounts by December 31, 2012 detailing their legal authority to exercise this power.
- The District's authority to exercise the power of eminent domain includes, but is not limited to, the following constitutional provisions and statutes:
 - Texas Constitution Article 1, Section 17
 - Texas Education Code, Section 11.155
 - Texas Education Code, Section 45.161
 - Texas Government Code, Sections 2206.001 - .101
 - Texas Local Government Code, Sections 273.001-.009
 - Texas Property Code, Sections 21.001-.013
 - Texas Water Code, Section 11.033

Administrative Consideration:

- That the District retains its right to exercise its right to eminent domain pursuant to the statutes above.
- Please see also the opinion letter and draft of the enabling documents to satisfy the provisions of this statute.
- This item will be a discussion item in September and ready for Board action in October.

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February 24, 2012

VIA ELECTRONIC MAIL: waddells@lisd.net

Dr. Stephen F. Waddell
Superintendent of Schools
Lewisville Independent School District
1800 Timber Creek Road
Flower Mound, Texas 75028

Re: Senate Bill 18; Letter to Texas Comptroller
Affirming School District's Eminent Domain
Authority

Dear Dr. Waddell:

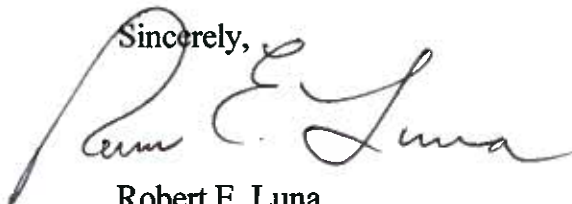
Pursuant to our conversation today, Senate Bill 18, effective September 1, 2011, requires any entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain, to submit to the Texas Comptroller of Public Accounts a letter stating that the entity is authorized by the state to exercise the power of eminent domain, and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested. **If this letter is not sent to the comptroller by December 31, 2012, the authority of an entity to exercise the power of eminent domain will expire on September 1, 2013.** Senate Bill 18 has been codified in Texas Government Code, Sections 2206.101(b)-(c). It has also been set out in TASB Model Board Policy CHG (Legal) in Update No. 91.

Therefore, it is vitally important under your district policy, as well as state law, to comply with these requirements prior to the official deadline of December 31, 2012, **or your district will lose the right of eminent domain.** We have drafted the enclosed resolution which authorizes the attached letter to be signed and sent to the Texas Comptroller of Public Accounts by certified mail, return receipt requested, pursuant to state law. **Please note that**

there is no provision in the law for sending this letter by e-mail, fax, or regular mail – only certified mail. We have also enclosed some proposed agenda language for the occasion when you might propose action by the Board of Trustees. Finally, please send a copy of the signed letter and resolution to our office so that we may include these documents with our file.

If you have any questions regarding this matter, please do not hesitate to contact our office. We will be glad to assist you in any way possible. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Luna". The signature is written in a cursive style with a large, sweeping initial "R".

Robert E. Luna

A handwritten signature in blue ink that reads "Elisabeth D. Nelson". The signature is written in a cursive style with a large, sweeping initial "E".

Elisabeth D. Nelson

Enclosure(s)

RESOLUTION

LEWISVILLE INDEPENDENT SCHOOL DISTRICT

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

WHEREAS, pursuant to Senate Bill 18 enacted by the 82nd Legislature, effective September 1, 2011, all public and private entities authorized to exercise the power of eminent domain in Texas are required to submit a letter to the Comptroller of Public Accounts detailing their legal authority to exercise this power; and

WHEREAS, said letter, attached as Exhibit “A” and made a part hereof for all purposes, must be sent by certified, return receipt mail, not later than December 31, 2012, or pursuant to Senate Bill 18 and Texas Government Code Sections 2206.101(b)-(c), the authority of an entity to exercise the power of eminent domain expires on September 1, 2013;

NOW, THEREFORE BE IT RESOLVED by the Board of Trustees of the Lewisville Independent School District that the District is hereby authorized, pursuant to the requirements of Texas Government Code Section 2206.101, to send the letter attached hereto as Exhibit “A” to the Texas Comptroller of Public Accounts. The District’s authority to exercise the power of eminent domain includes, but is not limited to, the following Constitutional provisions and statutes (as they currently exist and as they may be hereafter modified from time to time):

Texas Constitution Article 1, Section 17;
Texas Education Code, Section 11.155;
Texas Education Code, Section 45.161;
Texas Government Code, Sections 2206.001—.101;
Texas Local Government Code, Sections 273.001—.009;
Texas Property Code, Sections 21.001—.103; and
Texas Water Code, Section 11.033

BE IT FURTHER RESOLVED that the District retains its right to exercise its right to eminent domain pursuant to the statutes noted above which confer that authority, as well as any additional existing statutes and laws not specifically referred to above.

BE IT FURTHER RESOLVED that the President, Vice President, Secretary of the Board of Trustees, Superintendent of Schools, and the Executive Director of Purchasing are each authorized to sign and shall send the letter attached hereto as Exhibit “A” to the Texas Comptroller of Public Accounts via certified, return receipt mail, as well as sign and send any other documents necessary to accomplish the purposes of this resolution.

PASSED, APPROVED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE LEWISVILLE INDEPENDENT SCHOOL DISTRICT, DENTON COUNTY, TEXAS, on the ____ day of _____, 2012.

LEWISVILLE INDEPENDENT SCHOOL DISTRICT:

By: _____
Carol Kyer, President
Board of Trustees

Attest:

By: _____
Julie Foughty, Secretary
Board of Trustees



Required Documentation of Eminent Domain Authority in Texas

What action must be taken: Per Senate Bill 18 enacted by the 82nd Legislature, all public and private entities authorized to exercise the power of eminent domain in Texas are **required to submit a letter to the Comptroller of Public Accounts detailing their legal authority to exercise this power. The letter must be sent by certified, return receipt mail not later than December 31, 2012.** (Per the bill, the authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the letter has been submitted by the deadline.)

About this form: This form is designed to guide entities in submitting the required information on eminent domain authority. Once the fields have been completed, the form can be printed and mailed via certified, return receipt to the address provided to meet the requirements of the bill.

Entity Information

1. Full, legal name of entity: Lewisville Independent School District

2. Alternate name of entity (if any): _____

3. Primary address: Street or P.O. Box 1800 Timber Creek Road
 City, State, Zip Code Lewisville, Texas 75028

4. Primary phone number (with area code): (469) 713-5200

5. Entity contact: First name Stephen Last name Waddell
 Phone number (with area code): (469) 948-8022 E-mail address: waddells@lisd.net

6. Alternate contact: First name Craig Last name Martin
 Phone number (with area code): (972) 350-4797 E-mail address: martincs@lisd.net

Eminent Domain Authority

7. Does your entity have eminent domain authority in Texas? Yes No

8. If "yes" to question 7, please identify all of the applicable provisions of state law that grant eminent domain authority to this entity. Please cite as Title of Code or Article, Section Number/Name (for example, Texas Government Code, Section 43.136 or Article 7849, Auxiliary Water Laws).

Lewisville Independent School District's eminent domain authority includes, but is not limited to, the following statutes (as they currently exist and as they may be hereafter modified from time to time):
 Texas Constitution Article 1, Section 17;
 Texas Education Code, Section 11.155;
 Texas Education Code, Section 45.161;
 Texas Government Code, Sections 2206.001—.101;
 Texas Local Government Code, Sections 273.001—.009;
 Texas Property Code, Sections 21.001—.103; and
 Texas Water Code, Section 11.033

9. Please indicate the first year in which this entity exercised eminent domain authority (if known): _____

DISCLAIMER: Chapter 2206, Subchapter C, Government Code (as added by Senate Bill 18, 82nd Regular Session) requires the Comptroller of Public Account to collect information and report to the Legislature all entities in the state of Texas that have the authority to exercise the power of eminent domain. Entities that provide information to the Comptroller represent and warrant that the information is accurate and complete to the best of their knowledge. **Entities that provide information acknowledge that it is their responsibility to submit a letter by certified mail, return receipt requested to the Comptroller's office, indicating that the Entity is authorized to exercise eminent domain authority and to identify each law that grants such authority.** The Entity further acknowledges that the Comptroller's office is not responsible to submit said letter, nor is it responsible for the Entity's failure to submit said letter as required by law, and that such failure may cause the entity's power of eminent domain to expire on September 1, 2013. The Entity also acknowledges that the Comptroller of Public Accounts is a state agency subject to Chapter 552 of the Texas Gov'I Code (the "Texas Public Information Act") and court interpretations thereof, and that the information submitted to this office may be subject to disclosure to the public under Section 552.101, et seq., of the Code.

Under Ch. 559, Government Code, you are entitled to review, request, and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at the address on this form or sb18compliance@cpa.state.tx.us.

By signing, I agree that the information is true and correct.

Mall this form via **certified mail** to:
 COMPTROLLER OF PUBLIC ACCOUNTS
 P.O. Box 13942
 Auslin, Texas 78711

sign here

 Signature

 Date

 Print Name/Title

 Phone (area code and number)