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June 30, 2016

Mr. Michael H. Gentry
West, Webb, Allbritton & Gentry
1515 Emerald Plaza
College Station, Texas 77845

*Via Email: mike.gentry@westwebblaw.com
and U.S. First Class Mail*

Dear Mr. Gentry:

Thank you for your letter dated June 30, 2016 sent on behalf of CSISD concerning “an allegation of a failure to file the necessary disclosure requirements under Texas Local Government Code § 176.001 et seq. in conjunction with the selection by CSISD of a bid for the purchase of 23.707 acres of real property submitted by DWS Development, Inc.” This letter is intended to provide CSISD with additional information related to the above-referenced allegation.

First, I would like to point out that I have complied with both the letter and the spirit of any relevant statutory provisions. Chapter 176 of the Local Government Code may not even be applicable to me in this situation; even if Chapter 176 applies, I have complied with it; and even if I failed to comply with Chapter 176, I complied within the exception period set out in your letter.

The initial issue that must be resolved is whether there is even a requirement for me, as a local government officer, to file a Conflict Disclosure Statement (a “CDS”) under Section 176.003. For Section 176.003(a)(2)(A) to be applicable to me, one would need to apply some sort of attribution theory. I do not know that this would be permissible under Chapter 176 because when we are interpreting a statute we usually look at the literal text of the statute and we must take the statute as we find it. While I have not found anything definitive on this point, it is my belief that under a strict reading of the plain language of Section 176.003(a)(2)(A), I would not be required to file a CDS in relation to this matter.

Even if one assumes that I am required to file a CDS under Chapter 176, I have done so within the timeframe specified. Section 176.003(b) requires me to file a required CDS “not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement...” As you will recall, I was not present for the Executive Session on June 21, 2016 during which the CSISD Board was first made aware of the bids that were submitted in this matter. I did not learn that DWS Development had entered a bid until days later. I filed a CDS well within the period set out in Section 176.003(b).

To take this one step further, even if one assumes that I knew of facts giving rise to a requirement to file a CDS more than seven days prior to yesterday, I filed a CDS well within the seven day window set out in Section 176.013(f) as referenced in your letter.

I have complied with the letter of the law, even if the law does not apply. Additionally, I have complied with the spirit of the law. As you know, I have not participated in any aspect of the CSISD Board deliberations or voting related to this matter, and I informed the Board President, the Superintendent, and others that David Scarmardo (DWS Development) is a client of my law firm.

If I can provide additional information or if you have any questions, please let me know.

Very truly yours,



Jeffrey C. Harris

JCH:ro

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