



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

June 7, 1962

Mr. Fred E. West
County Attorney
Lubbock County
Lubbock, Texas

Opinion No. WW-1350

Re: Whether the property described
and owned by the City of Lub-
bock is exempt from ad valorem
taxation under the stated facts.

Dear Mr. West:

You have requested our opinion on the following question:

". . . Is municipal property owned
by the City of Lubbock exempt from taxa-
tion under the laws of the State of Texas
under the facts as above stated?"

You gave us the statement of facts as follows:

"Certain property owned by the
City of Lubbock is platted by the
City of Lubbock in installments and
is known as Manhattan Heights Addi-
tion to the City of Lubbock, Lubbock
County, Texas. Title to said platted
property is held by the City of Lub-
bock pending sale by the Southeast
Lubbock Development Corporation to
a purchaser, and the receipt by the
City of Lubbock of the consideration
paid by the purchaser for the lot
in Manhattan Heights Addition which
is involved in the sales transaction."

Later you submitted additional facts as follows:

"The City acquired this property
from Sid Caraway and Tol Caraway by
warranty deed for valuable considera-
tion, said deed being dated August 14,
1925, . . .; and a portion of the pro-
perty was acquired from W. B. Price
and wife, Viola Justus Price, by warranty
deed dated March 10, 1953, . . .

". . .

"The City acquired the Caraway property for the purpose of using it as a dump ground in the interest of public health and sanitation. The City acquired the Price property to be platted and developed for: 'The establishment of a housing development on a non-profit basis for the alleviation of dangerous health conditions and over-crowdedness in slum areas in the City of Lubbock. No profit shall ever be realized by any person from the operation of this stated business, all in accordance with Subdivision 2, Article 1302, Revised Civil Statutes'; said purpose being taken and quoted from the Charter of Southeast Lubbock Development Corporation. As stated before in the Original 'STATEMENT OF FACTS' title to said platted property is held by the City of Lubbock pending sale by the Southeast Lubbock Development Corporation to a purchaser, and the receipt by the City of Lubbock of the consideration paid by the purchaser for the lot in Manhattan Heights Addition which is involved in the sales transaction.

". . .

"From time of acquisition until 1953 the City used the property purchased from the Caraways as a dump ground in the interest of public health and sanitation and in 1953 the decision was made by the City to devote the property purchased from the Caraways and the property just purchased from the Prices to the uses and purposes above-quoted from the Charter of Southeast Lubbock Development Corporation."

This office has held in numerous opinions that property owned by a municipal corporation and held or used for public purposes is exempt from taxation.

The following is quoted from Opinion No. WW-281 rendered by this office under date of October 17, 1957:

"Sec. 2, Art. VIII, of the Texas Constitution provides in part:

"'but the legislature may, by general laws, exempt from taxation public property used for public purposes.'

"Sec. 9, Art. XI, of the Constitution of Texas, provides in part:

"'The property of counties, cities and towns, owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used, or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public shall be exempt from forced sale and from taxation, ***.'

"Article 7150, V.C.S. provides that the following property is exempt from taxation:

"' . . .

"'Sec. 4. All property, whether real or personal, belonging exclusively to this State, or any political subdivision thereof,***.'

"You will note that Sec. 4, of Article 7150, supra, purports to exempt all property, whether real or personal, belonging exclusively to this State, or any political subdivision thereof and does not contain the restriction that such property to be exempt must be used for public purposes. Counties and cities are political subdivisions of the State. However, Sec. 2 of Art. VIII, supra, of the Constitution only gives the Legislature the authority to exempt such property when used for public purposes. Therefore Sec. 4 is inoperative insofar as it purports to exempt public property regardless of its use in violation of said Sec. 2, Art. VIII of the

Constitution, but is valid insofar as it exempts public property used for public purposes. City of Abilene v. State, 113 S.W.2d 631."


Under the facts stated in your request, it appears that this property has been devoted to public use from the time it was acquired by the City of Lubbock; and, therefore, in conformity with opinions heretofore rendered by this office and the courts of this State, we are of the opinion that this property is being used for a public purpose and is exempt from taxation.

S U M M A R Y

Property acquired by a city initially as a dump ground and later devoted to a housing project for public improvements, and other property acquired for purpose of a housing project to eliminate slums and for public health purposes is being used for a public purpose and therefore exempt from ad valorem taxes.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
J. H. Broadhurst
Assistant

JHB:jp

APPROVED:

OPINION COMMITTEE:
W. V. Geppert, Chairman

Henry Braswell
Jerry Roberts
Grundy Williams
J. C. Davis

REVIEWED FOR THE ATTORNEY GENERAL
By: Houghton Brownlee, Jr.