

Subject: ACTION REQUIRED - EMINENT DOMAIN
Date: Wednesday, August 31, 2011 1:17:51 PM CT
From: Julie H. Eichelbaum
To: Beau Rees

Dear Dr. Rees:

The Texas Legislature extensively amended Texas's eminent domain statutes in 2011. Independent school districts and other government entities will lose the power of eminent domain as of September 1, 2013, unless they take action to reassert this power before December 31, 2012.

To retain the district's eminent domain powers, the Board will first authorize the submission of the statement of intent to retain ~~your~~ eminent domain authority to the Comptroller of Public Accounts. The attached letter will meet this requirement. An agenda item such as, "Eminent Domain Authority" will provide notice that the Board will be discussing this topic. Under such a topic, the superintendent would explain the legal requirements for retaining that authority, recommend approval of the attached letter, and the Board would be free to discuss the pros and cons of retaining or foregoing such authority.

The District **MUST** send the notice of intent letter **by certified mail, return receipt requested**. No other delivery method is acceptable according to the statute. Be sure to include the certified mail number somewhere on the face of the letter. Make two copies of this completed letter; mail one certified, return receipt requested to the Comptroller (attach the green card, and don't forget to put your return address on the back of the card). Keep the other copy, and when the green card returns verifying receipt in the Comptroller's office, staple it to your copy of the letter. Keep this notification in a safe place, such as where the District's real property records are maintained, in case the district has to prove at some time in the future that it actually filed the required statement.

Note that the Legislature made other changes to the eminent domain procedures that are effective beginning September 1, 2011, but those changes are separate from this notification letter. Failure to file this statement with the comptroller's office by December 31, 2012 will result in your district's losing the ability to exercise eminent domain.

Even though the deadline is more than a year away, the Comptroller is accepting letters of intent to retain eminent domain authority. Don't wait. File this form today! If you have any questions regarding this email or the form, please direct them to Dr. Carol Simpson, csimpson@edlaw.com or (800) 488-9045.

Julie H. Eichelbaum
Director of Client Relations

Schwartz & Eichelbaum Wardell Mehl and Hansen, P.C.
5300 Democracy Dr., Suite 200, Plano, Texas 75024
972.377.7900 :: 972.377.7277 fax :: www.edlaw.com

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