

AFFIDAVIT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

On this day, Robert Rose appeared before me, the undersigned notary public. After I administered the oath to him, upon his oath, he said:

1. My name is Robert Rose. I am a resident of Harris County, Texas. I am over the age of 18 years old and am competent to make this affidavit in all respects. The facts recited herein are within my personal knowledge and are true and correct.

2. A serious issue exists with respect to whether the West Montrose Management District’s assessment was void and illegal in the first place. Section 3878.204(2) of the Texas Special District Local Laws Code empowered that entity to assess or finance a service or improvement project so long as there is a signed petition of “at least 25 owners of real property in the district that will be subject to the assessment, if more than 25 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.” However, not all of the owners who signed the petition in August of 2009 were eligible to do so, as will be proven by Plaintiff, as follows: (1) Moore, E Bailey, HCAD 044-184-000-0055. Bailey Moore's property is a residential property and therefore not subject to the assessment. As of the filing of this suit, it is still classified as a residential property; (2) Mitchmore Living Trust, HCAD 054-234-000-0015. Randy Mitchmore operates a dental business from this property, but he also claims a residential homestead exemption. As a residential homestead, the property has not been subject to the assessment; and (3) Carter, Michael M, HCAD 054-234-000-0012. Michael Carter operates a funeral business from this property, but he also claims a residential homestead exemption. As a residential homestead his property has not been subject to the assessment. Because of these facts, the assessment petition was not in compliance with state law and the West Montrose Management District’s assessment and/or tax is void as a matter of law.

3. On several occasions, I requested the tax rolls from David Hawes, Director and Representative of the Montrose Management District, in order to determine which properties were assessable and therefore would be used to satisfy Section 3878.204(2) of the Texas Special District Local Laws Code

4. Mr. Hawes would then forward my request to Equi-tax, the third party billing and collection company contracted by the Montrose Management District to conduct the assessments.

5. On four separate occasions, Equi-tax sent to me, via Mr. Hawes, the official tax roll for the Montrose Management District. Specifically, I received tax rolls dated October 29, 2010; January 28, 2011; August 25, 2011¹; and January 19, 2012. A true and correct copy of these tax rolls is attached hereto and incorporated herein as Exhibits 1-4 respectively. The properties owned by Bailey Moore (“Moore”), the Mitchmore Living Trust (“Mitchmore”) and Michael Carter (“Carter”) do not appear on any of the aforementioned tax rolls.

6. In regard to the Moore property, Bailey Moore signed the petition on August 13, 2009. A true and correct copy of this petition is attached hereto as Exhibit 5. A true and correct copy of the corresponding HCAD data sheet is attached hereto as Exhibit 6. It clearly shows that the property is classified as residential property. As such, it was not included in the property tax rolls for the Montrose Management District. Again, through January 19, 2012, the property was not on the tax rolls. See Ex. 4.

7. Both the Carter and Mitchmore properties are classified as commercial properties, but because they have “Residential Homestead Exemptions” they do not appear on the tax rolls. A true and correct copy of the Carter petition is attached hereto as Exhibit 7. A true and correct copy of the corresponding HCAD data sheet is attached hereto as Exhibit 8. A true and correct copy of the Mitchmore petition is attached hereto as Exhibit 9. A true and correct copy of the corresponding HCAD data sheet is attached hereto as Exhibit 10. I am aware of 16 other similarly classified properties and none of them are on the tax rolls. George Jacobsen, an individual with whom I am acquainted, owns property that falls in this category. His property has never appeared on any of the tax rolls and he has never received an assessment bill from the Montrose Management District.

8. As stated before, Section 3878.204(2) of the Texas Special District Local Laws Code empowered the District to assess or finance a service or improvement project so long as there is a signed petition of “at least 25 owners of real property in the district that will be subject to the assessment, if more than 25 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.” In my opinion, the question before the Court is not whether these three properties were in fact assessed by the District. Nor is the question whether they paid such assessment. Finally, in my opinion, the Court should not decide whether they are a commercial property owner. The question before the Court is whether these property owners who signed the petition in question were commercial property owners as set out by the tax rolls. As demonstrated above, these properties were not included on the tax roll.

¹ This was the actual tax roll that was used to create the dissolution petition. As stated above, neither the Moore Property, the Mitchmore Property nor the Carter Property were included on this tax roll. Nor were they included on the prior two tax rolls or the January 19, 2012 tax roll. See Ex. 1-4.

Further affiant sayeth not.

Signed this 23 day of August 23, 2012.

Robert J. Rose
Signature of Affiant
Robert J. Rose
Name of Affiant

SWORN AND SUBSCRIBED TO BEFORE ME on the 23rd day of August, 2012.

Jeanna E. Morgan
Notary Public in and for the State of Texas

My commission expires: July 8, 2014

