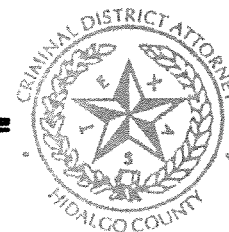


RENE GUERRA



September 29, 2014

Ray Eufracio, CPA
Hidalgo County Auditor
2808 South Business Highway 281
Edinburg, Texas 78539

RE: DEBT OWED TO THE HIDALGO COUNTY SHERIFF'S OFFICE

Dear Mr. Eufracio,

My office received a request for assistance from the Hidalgo County Sheriff's Office regarding the collection and/or possible write-off of a debt of SIXTEEN THOUSAND EIGHT HUNDRED EIGHTY ONE DOLLARS AND ELEVEN CENTS (\$16,881.11) owed and outstanding from the City of La Villa, as denoted in your office's letter - Review of Sheriff's Fee Balance Sheet dated July 30, 2014.

As part of my research into this issue, I have reviewed the following:

- Texas Government Code;
- Texas Local Government Code;
- Relevant Attorney General Opinions;
- Applicable case law and statutes; and
- Related correspondence.

The \$16,881.11 in question was previously booked as a receivable to the Hidalgo County Sheriff's Office for the housing of prisoners by Hidalgo County more than sixteen years ago. Monthly billing statements and letters were periodically sent by the Sheriff's Office, in addition to a formal attempt to collect the debt made by the firm of Atlas & Hall in February of 1997, and, after the termination of the detention agreement, by Sheriff Escalon in May of 1997. Since that time, you state that the funds were never collected and remain on the ledgers.

This Office sent a demand for the past due amount via certified mail to the City of La Villa and their legal counsel on July 10, 2014, advising the City that payment be received within 30 days. The City of La Villa responded on August 7, 2014 indicating that the City "does not currently have the monetary resources available to submit payment", and requesting that the debt be waived or forgiven because the "financial situation of the City is so precarious that the addition of this additional liability would have serious financial implications for this small community."

Please be advised that there are no statutes directly on point with the issue before us. Neither the Government Code nor the Local Government Code speak to uncollectable or "bad debts" owed

to a county. However, the most practical solution may be to consider contract law and statutory limitations for the collection of debts.

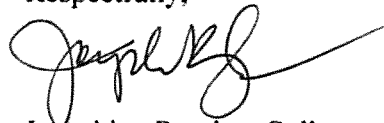
Assuming a valid contract existed for the repayment of the debt owed to the county, the statute of limitations for breach of contract is four years. *See* CPRC §16.004(a)(c). Additionally, the statute of limitations for debt collection is also only four years. *See* CPRC §16.004(a)(3). As such, all applicable statutes of limitation have long since run and any claims would be barred from suit. There are instances where limitations would not apply to a governmental entity, such as a County. However, we do not find that to be the case here.

According to the Federal Accounting Standards Advisory Board, to “write-off” means “an action to remove an amount from an entity’s assets. A write-off of a loan occurs when an agency official determines, after all appropriate collection tools have been used, that a debt is uncollectible. Active collection on an account ceases, and the account is removed from an entity’s receivables.” *See* FASAB Handbook, Version 12 June 2013 (*Treasury Financial Manual Supplement*). Furthermore, as you are aware, under the Local Government Code, the county auditor “has general oversight of the books and records of a county... to receive or collect money or other property that is intended for the use of the county or that belongs to the county. The county auditor shall see to the strict enforcement of the law governing county finances.” *See* Tex. Local Gov’t Code §112.006.

As to the current status of the debt, legal recourse in suing for the collection of the debt may be barred by the statute of limitations, and the City is in a precarious financial situation, which would make it unlikely that the debt could be paid. Thus, it would stand to reason that you, as the agent charged with overseeing the County’s finances, have the authority to write-off the debt considering all “appropriate collection tools” are unfeasible. *See id.*

Should you wish to discuss this matter further, please feel free to contact me at (956) 318-2300.

Respectfully,



Josephine Ramirez Solis,
Assistant Criminal District Attorney
Hidalgo County, Texas

Hector Elizondo
Mayor

Jorge Lopez, Jr.
Mayor Pro-Tem

Wilfredo Mata
City Administrator



Joe Contreras
Alderman Pl. 2

Mario Lopez
Alderman Pl. 3

Manuel Hinojosa
Alderman Pl. 1

Rosa Perez
Alderwomen Pl.5

August 7, 2014

**Victor M. Garza,
Assistant District Attorney
Hidalgo County Courthouse
100 North Clossner, Room 303
Edinburg, Texas 78539**

Ref: Prior year's past due balances

Dear Mr. Garza:

As per our prior conversation, this letter serves to reaffirm that the City of La Villa does not currently have the monetary resources available to submit payment on account for detainee custodial services provided by the County in prior years. As you may be aware the City of La Villa is a small entity with limited resources that has found itself in difficult financial constraints for the past several years. Although the City is working diligently to bring itself out of a deficit position, it still has a long way to go.

With this in mind, I would like to respectfully ask if the County would be willing to waive or forgiven any or all of this prior debt. The financial situation of the City is so precarious at this time that the addition of this additional liability would have serious financial implications for this small community.

I look forward to position response from you in regards to this matter.

Respectfully,

**Wilfredo Mata
City Manager
City of La Villa**