

Opinion No. 2010-047

April 13, 2010

The Honorable Nathan V. George
State Representative
11236 North New Hope Road
Dardanelle, Arkansas 72834-7776

Dear Representative George:

This is in response to your requested for my opinion on the following questions:

1. Is the Assessment Coordination Department acting within the scope of its authority in interpreting that Arkansas Code Annotated § 26-28-111, Correction of Errors, pertains only to situations where a mistake was made on the tax books by the assessor?
2. Is such an interpretation by the Assessment Coordination Department clearly erroneous or otherwise contrary to existing law?

RESPONSE

I have recently received a request for an opinion regarding similar questions, in response to which I issued Op. Att’y Gen. No. 2010-020 (copy attached). I was obliged to decline to address the issue. As I explained in that opinion, it has come to my attention that this matter is currently the subject of litigation on appeal to the Independence County Circuit Court. The issues raised in your request for an opinion require analysis of at least one issue raised and discussed in pending litigation in a case styled *Arysta Life Science North America, LLC v. Linda Foreman, in her official capacity as Independence County Treasurer*, Case No. CV 2009-364-4 (November 25, 2009).

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As I also explained in Opinion 2010-020, although I have a statutory duty to render my opinion to members of the legislature and various state officials regarding matters of state law, see A.C.A. § 25-16-706 (Repl. 2002), my office adheres to a long-standing policy against issuing opinions concerning matters that are the subject of pending litigation. This policy of declining to address such issues is based primarily upon the separation of powers doctrine. *See, e.g.*, Ops. Att’y Gen. Nos. 2009-093, 2006-013; 2003-182; 2003-032; 2002-302; 99-389; 97-329; 97-105. Any opinion issued from my office would constitute executive comment on matters that are properly decided by a judicial body. Because your question clearly relates to a matter that is the subject of pending litigation, any answer to your question must be provided in the judicial forum.

For this reason, I must decline to respond to your question at this time.

Assistant Attorney General Jack Druff prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:JHD/cyh

Enclosure