

CAUSE NO. C2018-1576B

Douglas Walter Kirk	§	IN THE DISTRICT COURT
	§	
Vs.	§	
	§	207 th JUDICIAL DISTRICT
Comal Appraisal District	§	
	§	
	§	
	§	COMAL COUNTY, TEXAS

FIRST SET OF ADMISSIONS

Comes now Douglas Walter Kirk, seeking RESPONSE from DEFENDANT regarding these admissions.

1. Admit / Deny that Defendant (Comal Appraisal District) did not physically inspect the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
2. Admit / Deny that aerial photographs are not a reliable means of identifying property.
3. Admit / Deny that land-based photographs are not a reliable means of identifying property.
4. Admit / Deny that Defendant (Comal Appraisal District) did not use a deed or other legal documentation to identify the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
5. Admit / Deny that Defendant (Comal Appraisal District) did not use a survey to identify the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
6. Admit / Deny that Defendant (Comal Appraisal District) did not use a map to identify the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

7. Admit / Deny that Defendant (Comal Appraisal District) did not use a property sketch to identify the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
8. Admit / Deny that guessing is not a reliable means of identifying property.
9. Admit / Deny that Defendant (Comal Appraisal District) did not identify and update relevant characteristics of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
10. Admit / Deny that Defendant (Comal Appraisal District) did not identify a market area relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
11. Admit / Deny that Defendant (Comal Appraisal District) did not identify property characteristics that affect property values in the market area relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
12. Admit / Deny that Defendant (Comal Appraisal District) did not take into account location and market area relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
13. Admit / Deny that Defendant (Comal Appraisal District) did not take into account physical attributes relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
14. Admit / Deny that Defendant (Comal Appraisal District) did not take into account legal and economic attributes relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
15. Admit / Deny that Defendant (Comal Appraisal District) did not take into account easements, covenants, leases, reservations, contracts, declarations, special assessments, ordinances, or legal restrictions relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
16. Admit / Deny that Defendant (Comal Appraisal District) did not develop an ap-

praisal model that reflected the relationship among the property characteristics affecting value in each market area and determined the contribution of individual property characteristics relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

17. Admit / Deny that Defendant (Comal Appraisal District) did not apply the conclusions reflected in an appraisal model to the characteristics relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

18. Admit / Deny that Defendant (Comal Appraisal District) did not review the appraisal results to determine value relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

19. Admit / Deny that Defendant (Comal Appraisal District) knew the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) was not omitted property.

20. Admit / Deny that Defendant (Comal Appraisal District) (whether one or more than one of its employees) was upset that the property owner of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) was “uncooperative” with the Defendant.

21. Admit / Deny that Defendant (Comal Appraisal District) (whether one or more than one of its employees) wanted to punish the property owner of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) for being “uncooperative” with the Defendant.

22. Admit / Deny that Defendant (Comal Appraisal District) (whether one or more than one of its employees) failed to deliver on a lawfully timely basis to the property owner of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) records he requested in one or more open records requests under the Texas Public Information Act.

23. Admit / Deny that Defendant (Comal Appraisal District) altered one or more official government documents before turning them over to the property owner of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

24. Admit / Deny that Defendant's (Comal Appraisal District) employee Brandon Voigt was involved in the appraisal proceedings of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

25. Admit / Deny that Defendant's (Comal Appraisal District) employee Brandon Voigt said he doesn't really like his job with the Defendant and would rather be employed in the heating /air conditioning business.

26. Admit / Deny that Defendant's (Comal Appraisal District) employee Brandon Voigt is incompetent when it comes to appraising property.

27. Admit / Deny that Defendant (Comal Appraisal District) appraised the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) in 2016 and set the value at \$177,140.

28. Admit / Deny that Defendant (Comal Appraisal District) appraised the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) in 2017 and set the value at \$188,630.

29. Admit / Deny that Defendant (Comal Appraisal District) appraised the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) in 2018 and set the value to be \$358,610.

30. Admit / Deny that Defendant (Comal Appraisal District) inspected the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) in 2010.

31. Admit / Deny that Defendant (Comal Appraisal District) inspected the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) in 2013.

32. Admit / Deny that Texas Law does not mandate that appraisal districts appraise all property at current market value.

33. Admit / Deny that Defendant (Comal Appraisal District) believes that it must make a physical inspection of property in order to place an accurate value on the property.

33. Admit / Deny that Defendant (Comal Appraisal District) believes that its estimated values of property may not be accurate.
34. Admit / Deny that Defendant (Comal Appraisal District) has not appraised property owned by Cathy C. Talcott at full market value.
35. Admit / Deny that Defendant (Comal Appraisal District) has not appraised property owned by Guy Anderson at full market value.
36. Admit / Deny that Defendant (Comal Appraisal District) used Google Earth in its appraisal of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).
37. Admit / Deny that Defendant (Comal Appraisal District) used Google Earth in its appraisal of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) to determine square footage of alleged structures below rooftops.
38. Admit / Deny that Defendant (Comal Appraisal District) used Google Earth in its appraisal of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) to determine the use of alleged structures below rooftops.
39. Admit / Deny that Defendant (Comal Appraisal District) used Google Earth in its appraisal of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) to determine value of alleged structures below rooftops.
40. Admit / Deny that Google Earth imagery used by Defendant (Comal Appraisal District) for the appraisal of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) was created by an unmanned satellite.
41. Admit / Deny that Defendant (Comal Appraisal District) presented a Google Earth image of the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) to the Appraisal Review Board as evidence at a hearing on July 19, 2018 with the property owner present.

42. Admit / Deny that Defendant (Comal Appraisal District) violated Texas Law when it substituted, in fulfillment of a August 16, 2018 open records request, a different aerial image for the Google Earth image presented at the July 19, 2018 Appraisal Review Board hearing regarding the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

43. Admit / Deny that Defendant (Comal Appraisal District) violated Texas Statute, Title 1. Property Tax Code, Subtitle D. Appraisal and Assessment, Chapter 23. Appraisal Methods and Procedures, Subchapter A. Appraisals Generally, Sec. 23.23 Limitation on Appraised Value of Residence Homestead relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

44. Admit / Deny that Defendant's (Comal Appraisal District) employee Jeremy Brehm is incompetent when it comes to appraising property.

45. Admit / Deny that Defendant's (Comal Appraisal District) employee Ryan G. Dow is incompetent when it comes to fulfilling open records requests under the Texas Public Information Act.

46. Admit / Deny that Defendant's (Comal Appraisal District) employee Rufino H. Lozano is incompetent when it comes to appraising property.

47. Admit / Deny that Defendant (Comal Appraisal District) exceeded the appraisal value required by law for property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

48. Admit / Deny that there are no other properties in the appraisal district similar to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

49. Admit / Deny that properties offered as comparables by the Defendant (Comal Appraisal District) to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) are not bounded 100% by public roads.

50. Admit / Deny that properties offered as comparables by the Defendant (Comal Appraisal District) to the property subject of this lawsuit (Prop. ID: 82819, Legal

Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) are not located within 200 yards of an animal shelter that houses incessantly barking dogs.

51. Admit / Deny that properties offered as comparables by the Defendant (Comal Appraisal District) to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) have not been burglarized at least six times within the past 30 years.

52. Admit / Deny that properties offered as comparables by the Defendant (Comal Appraisal District) to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) are not situated where gunshots are heard in the night on a weekly basis.

53. Admit / Deny that Defendant (Comal Appraisal District) did not select a reasonable and representative sample of other properties in the appraisal district to compare to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

54. Admit / Deny that Defendant (Comal Appraisal District) did not select other properties in the appraisal district that are similarly situated to compare to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

55. Admit / Deny that Defendant (Comal Appraisal District) did not select other properties in the appraisal district that are of the same general kind or character to compare to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

56. Admit / Deny that Defendant (Comal Appraisal District) did not select a reasonable number of comparable properties appropriately adjusted to compare to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

57. Admit / Deny that Defendant (Comal Appraisal District) ignored Sec. 23.23 of the Tax Code relative to property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

58. Admit / Deny that Defendant (Comal Appraisal District) appraised property the

subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) in an unequal and nonuniform manner.

58. Admit / Deny that Defendant (Comal Appraisal District) failed to identify a market area relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

59. Admit / Deny that Defendant (Comal Appraisal District) failed to identify physical attributes relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

60. Admit / Deny that Defendant (Comal Appraisal District) failed to identify legal and economic attributes relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

61. Admit / Deny that Defendant (Comal Appraisal District) failed to develop an appraisal model that reflects the relationship among the property characteristics affecting value in each market area which determines the contribution of individual property characteristics relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

62. Admit / Deny that Defendant (Comal Appraisal District) failed to apply conclusions reflected in an appraisal model to the characteristics of the properties being appraised relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

63. Admit / Deny that Defendant (Comal Appraisal District) failed to review the appraisal results of an appraisal model analysis to determine value of the property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

64. Admit / Deny that the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) is not in a subdivision.

65. Admit / Deny that Defendant (Comal Appraisal District) has no sales data relative to the property subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

66. Admit / Deny that Defendant (Comal Appraisal District) fabricated the total living area relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

67. Admit / Deny that Defendant (Comal Appraisal District) fabricated the construction quality relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

68. Admit / Deny that Defendant (Comal Appraisal District) fabricated the condition relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

69. Admit / Deny there are no auxiliary improvements relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

70. Admit / Deny the property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895) is not in a neighborhood.

71. Admit / Deny that Defendant (Comal Appraisal District) did not correctly define the parameters of a market area relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

72. Admit / Deny that Defendant (Comal Appraisal District) did not equitably value the property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

73. Admit / Deny that Defendant (Comal Appraisal District) did not verify the highest and best use relative to property the subject of this lawsuit (Prop. ID: 82819, Legal Desc: A-939 SUR-804 H LUEHLFING, ACRES 9.895).

Respectfully Submitted,

By _____
Douglas Walter Kirk, *pro se*
1850 Old Sattler Road
Canyon Lake, Texas 78130
Telephone: (830) 237-7313
E-mail: dougkirk@gvtc.com

CAUSE NO. C2018-1576B

Douglas Walter Kirk	§	IN THE DISTRICT COURT
	§	
Vs.	§	
	§	207th JUDICIAL DISTRICT
Comal Appraisal District	§	
	§	
	§	
	§	COMAL COUNTY, TEXAS

CERTIFICATE OF SERVICE

I hereby certify that pursuant to the Texas Rules of Civil Procedure on this the 7th day of November, 2018, a true and correct copy of the foregoing has been served by certified mail on Defendant Comal Appraisal District, 900 South Seguin Avenue, New Braunfels, Texas, 78130 through its attorney Kirk Swinney (State Bar No. 19588400) at Low & Swinney, PLLC, 623 S. Baker Cir., Leander, Texas 78641, Phone (512) 379 5800. Certified Number: 7016 2104 0000 6880 3101.

By _____
Douglas Walter Kirk, *pro se*
1850 Old Sattler Road
Canyon Lake, Texas 78130

Telephone: (830) 237-7313
E-mail: dougkirk@gvvc.com

Douglas Kirk
1850 Old Sattler Road
Canyon Lake, Texas 78132
(830) 237-7313
dougkirk@gvtc.com

November 7, 2018

Subject: First Set of Admissions NO. C2018-1576B

Kirk Swinney (State Bar No. 19588400)
Low & Swinney, PLLC
623 S. Baker Cir.
Leander, Texas 78641

Phone (512) 379 5800

Dear Mr. Swinney:

Enclosed please find my First Set of Admissions relative to Cause No. C2018-1576B.

Please do not hesitate to send me an email if you have any questions.

Thank you.

Sincerely,

Douglas Kirk

CAUSE NO. _____

Douglas Walter Kirk

§

IN THE DISTRICT COURT

§

Vs.

§

§

_____ JUDICIAL DISTRICT

Comal Appraisal District

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COMAL COUNTY, TEXAS

CERTIFICATE OF SERVICE

I hereby certify that pursuant to the Texas Rules of Civil Procedure on this the 6th day of September, 2018, a true and correct copy of the foregoing has been served by personal delivery on Comal Appraisal District, 900 South Seguin Avenue, New Braunfels, Texas, 78130.

By _____
Douglas Walter Kirk, *pro se*
1850 Old Sattler Road
Canyon Lake, Texas 78130

Telephone: (830) 237-7313
E-mail: dougkirk@gvtc.com