

CAUSE NO. C2018-1576B

DOUGLAS WALTER KIRK,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	COMAL COUNTY, TEXAS
	§	
COMAL APPRAISAL DISTRICT	§	
	§	
Defendant.	§	207 TH JUDICIAL DISTRICT

DEFENDANT’S FIRST SET OF INTERROGATORIES

TO: Douglas Walter Kirk, Plaintiff, by and through its attorney of record, Douglas Walter Kirk, *pro se*, 1850 Old Sattler Road, Canyon Lake, Texas, 78130.

Please take notice that you, the party to whom these interrogatories are addressed, are hereby required, pursuant to the provisions of TEX. R. CIV. P. 197, to serve upon the undersigned attorney of record for the party propounding the same, its answers in writing under oath as required in TEX. R. CIV. P. 197, to the interrogatories listed below.

INSTRUCTIONS AND DEFINITIONS OF TERMS

A. The term “lawsuit” means any and all claims or causes of action presently filed in the above-captioned cause or known to you.

B. The term “subject property” means the real property which is the subject of this lawsuit. Your answer to each interrogatory should respond with regard to each of the properties individually, specifying the property to which the answer applies.

C. Your attention is specifically directed to the provisions of the Rules of Civil Procedure including, but not limited to, Rule 193.5, pertaining to your duty to supplement answers to interrogatories. Upon the occurrence of any of the events or contingencies giving rise to such duty to supplement, the Defendant herein makes demand upon you to supplement the answers hereto.

D. The words “describe”, “identify”, “explain”, or “state”, when used herein, mean to detail fully and completely all the discoverable information pertaining to this cause which concerns or is relevant to the inquiry being made.

E. To identify a person means to state the person’s full legal name, his or her business address, his or her business telephone number, and his or her job title.

F. To identify a document means to state the type of document, title of the document, its date, its author and the identity of the persons with possession and control of the document.

G. The term “expert” means any expert witness or appraiser whom the Plaintiff may not call to testify at the trial, but whose opinions or impressions were reviewed by a testifying expert witness. This discovery does not seek documents prepared by testifying or purely consulting experts retained by the Plaintiff and prepared in anticipation of this litigation.

H. Any referenced to the Plaintiff herein shall include all employees, officers and agents of the Plaintiff, or any independent appraiser or contractor engaged by the Plaintiff.

I. The term “appraisal ratio” has the meaning stated in § 1.12(b) TEX. PROP. TAX CODE.

J. The term “median level of appraisal” is explained in § 1.12 TEX. PROP. TAX CODE.

K. Any reference to the “Plaintiff” includes all Plaintiffs if there is more than one.

L. Any reference to the “Defendant” includes all responding Defendants if there is more than one Defendant.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify all experts who may not be called to testify but whose work product forms a part of the basis for the opinions of any testifying expert.

INTERROGATORY NO. 2:

State the amount of value of the subject property that the Plaintiff does not dispute. The answer should specify the undisputed value of the tract of land and each improvement.

INTERROGATORY NO. 3:

Describe the Plaintiff's acquisition of the subject property, specifying the date of acquisition, the acquisition cost, terms, construction contracts, or other agreements concerning the terms of the transaction through which the subject property was acquired. The word acquisition should be construed broadly enough to include the construction of the subject property if the subject property was constructed by or for the Plaintiff.

INTERROGATORY NO. 4:

Describe each sale or transfer of the subject property, or any interest in the subject property, at any time since the January 1 five years prior to the earliest valuation date in issue herein through the date of trial specifying the identities of the purchaser and seller, the interest conveyed, the date of the transaction and the consideration paid for the sale or transfer.

INTERROGATORY NO. 5:

Describe each expenditure of \$10,000.00 or more to construct, expand, remodel, renovate, beautify, repair or improve the subject property specifying the date and amount of each expenditure and the purpose of each expenditure. The answer need only address the period from the January 1 five years prior to the earliest valuation date in issue herein throughout the present.

INTERROGATORY NO. 6:

If the subject property has wholly or partially secured any indebtedness at any time since the January 1 five years prior to the earliest valuation date in issue herein through the date of trial, describe such debts specifying the identity of the debtors, the identity of the creditors, the amount of the debt secured, and the terms of the loan agreement.

INTERROGATORY NO. 7:

Describe each appraisal of the subject property or any part of the subject property at any time since the January 1 five years prior to the earliest valuation date in issue herein through the date of trial, specifying the value determined by the appraisal and identifying the persons who performed the appraisal, the persons or entities to whom copies of the appraisal were furnished and the date of the appraisal.

INTERROGATORY NO. 8:

Describe each communication, oral or written, between the Plaintiff and any representative of the Defendant specifying the date of the communication, the individuals involved, the substance of the communication and whether the communication was by telephone, in person, by letter, etc. You may limit your response to those communications which concern the subject property or which you intend to introduce into evidence at any hearing or trial in this cause of action.

INTERROGATORY NO. 9:

Identify each person whom the Plaintiff will call as a witness at any hearing or trial in this litigation and describe the type of knowledge relevant to this litigation possessed by each such person.

INTERROGATORY NO. 10:

If at any time since the January 1 five years prior to the earliest valuation at issue herein through the date of trial, the Plaintiff has entered into negotiations for the sale or purchase of the subject property, has listed or otherwise marketed the subject property, or has received an offer from a third party to purchase the subject property, please reveal the party with whom such negotiations were made or offer was received, the time such negotiations took place or offer was received, and the dollar amount of such offer or the approximate dollar amount discussed for the purchase of the property in those negotiations.

INTERROGATORY NO. 11:

If the appraisal ratio of the subject property or the appraisal ratio of any part or the whole of the subject property has been compared to the median level of appraisal of (1) a reasonable and representative sample of other properties in the jurisdiction of the Defendant, or (2) a sample of properties in the jurisdiction of the Defendant consisting of a reasonable number of other properties similarly situated to or of the same general kind or character as the subject property, then provide the following information:

- (a) the identity of each property considered for use in the sample;
- (b) the identity of each property actually used in the sample;
- (c) the market value of each property considered for use in the sample;
- (d) the manner in which the market value of each property was determined, including each appraisal method considered, each calculation performed, each figure used in the valuation process, and the origin or basis of each such figure;
- (e) an identification of each appraisal of property used in the sample, including the identity of the property appraised, the identity of the appraiser, the date of the appraisal and the appraised value; and

(f) the manner in which the median level of appraisal of the sample was determined.

INTERROGATORY NO. 12:

If the Plaintiff contends that it is entitled to relief pursuant to TEX. PROP. TAX CODE ANN. § 42.26(a)(3), please identify by owner, account number, and by year to which the comparison is made, any property which the Plaintiff contends is comparable to the subject property. For each of those properties, and for each year applicable, please identify any adjustments to the appraised value of those properties which the Plaintiff contends would be appropriate for a comparison of those values to the value of the subject property pursuant to the referenced § 42.26(a)(3). Please also identify the median appraised value of the allegedly comparable properties appropriately adjusted per year in contention. Please identify any special characteristic of each of the alleged comparable properties which may necessitate an adjustment to value thereof for comparison to the subject property. Please also state the market value of the purported comparable properties and the information leading to that conclusion of value. Please identify any sales prices of the alleged comparable property taking place at any time since the January 1 five years earlier than the earliest tax year in issue herein through the date of trial.

INTERROGATORY NO. 13:

Please describe any factor which the Plaintiff contends is an impediment to value of the subject property beyond normal wear.

INTERROGATORY NO. 14:

For each expert and fact witness which the Defendant has identified or subsequently identifies, please state all facts known to you which would enhance or disparage the witness's or the business of that witness's professional reputation, veracity, or accuracy or which the Plaintiff may use to impeach that witness. Please specifically state any facts known to you to indicate whether the opinions rendered or facts related by any of them are accurate or inaccurate, and

what, if any, business or professional complaints against any of them are known to you. Identify the party lodging such a complaint, the date and stated reason for the complaint.

INTERROGATORY NO. 15:

Describe the general substance of the mental impressions and opinions of any person who may testify on your behalf as a witness, other than a testifying expert witness in this cause, and a brief summary of the basis for them.

Respectfully submitted,

LOW SWINNEY EVANS & JAMES, PLLC
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/s/ Kirk Swinney

By: _____

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been electronically served upon all counsel of record in compliance with Rules 21 and 21a of the Texas Rules of Civil Procedure on this the 6th day of December, 2018.

Douglas Walter Kirk
dougkirk@gmvc.com

/s/ Kirk Swinney

Kirk Swinney