



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1994

Ms. Barbara Elliott-Roberts
City Attorney
Legal Department
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR94-890

Dear Ms. Elliott-Roberts:

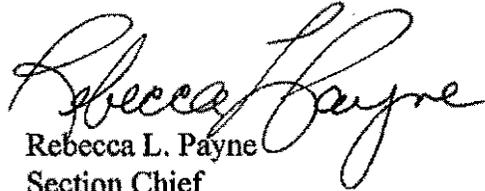
On behalf of the City of Galveston (the "city"), you ask that this office reconsider its ruling in Open Records Letter No. 94-647 (1994) that records relating to certain allegedly contaminated property must be released to the public under the Texas Open Records Act, chapter 552 of the Government Code. Your most recent correspondence to this office was assigned ID# 30038.

You state that you seek reconsideration of Open Records Letter No. 94-647 because the city does not possess any records responsive to the request. However, your original letter to this office regarding this matter belies this claim. For example, you specifically argued in that letter that records pertaining to on-going settlement negotiations with two property owners, as well as records pertaining to litigation between one of those individuals and the city, come under the protection of section 552.103. You also originally contended that records pertaining to the proposed development of a park-and-ride site near the allegedly contaminated area come under the protection of section 552.105. Because of the city's failure to submit copies of these records to this office for review, all such records coming within the ambit of the open records request are now deemed to be public.

We therefore decline to reconsider our ruling regarding these records, with the following exception. You stated in your original letter to this office that although the city had previously had access to an environmental study conducted at the expense of one of the above-referenced property owners, the city returned the study to the property owner

after reviewing it. In light of this fact, we will modify our ruling in Open Records Letter No. 94-647 to the extent that it requires the release of that study, which the city no longer possesses. However, the city must release all remaining documents that directly pertain to the litigation, settlement negotiations, and proposed park-and-ride site to the extent that those documents existed at the time of receiving the open records request.

Yours very truly,



Rebecca L. Payne
Section Chief
Open Government Section

RLP/LRD/RWP/rho

Ref.: ID# 30038
Open Records Letter No. 94-647

cc: Mrs. Italo Viotto
109A Delores
Conroe, Texas 77301