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District 60
House of Representatives

CHAIRMAN - ECONOMIC DEVELOPMENT
WAYS & MEANS

RQ-0061-GA

May 21, 2003

The Honorable Greg Abbott
Texas Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

FILE # ML-43127-03
I.D. # 43127

RECEIVED
JUN 06 2003
OPINION COMMITTEE

RE: Request for Attorney General's Opinion concerning incorporation of Long Island Village; City of Port Isabel, Texas v. Honorable Gilberto Hinojosa; Cause No. 2002-04-1454; 107th District Court, Cameron County, Texas.

Dear General Abbott:

I would like to request an Attorney General's Opinion determining whether a spoil island directly south of the City of Port Isabel (Port Isabel) is within its extraterritorial jurisdiction (ETJ). An issue relating to Port Isabel's ETJ has recently arisen regarding whether or not Long Island Village has the ability to incorporate itself as a municipality. At issue are the application and interpretation of §42.041 and §43.902 Local Government Code.

In Texas the minimum distance for a municipality's extraterritorial jurisdiction is one-half mile as established by §42.021 Local Government Code. Long Island Village is one-half mile of the southern city limits of Port Isabel and, therefore, the is considered within Port Isabel's ETJ.

Also, In Texas a municipality may not be incorporated in the extraterritorial jurisdiction of an existing municipality without the existing municipality's consent according to §42.041 Local Government Code. However, §43.902 Local Government Code provides an exception to the general rule concerning extraterritorial jurisdiction and states: "Land on an island bordering the Gulf of Mexico that is not accessible by a public road....may not be annexed by a municipality without the consent of the owners of the land." "The extraterritorial jurisdiction of a municipality does not include land on the island unless the owners of the land consent."



AG Opinion Request

May 21, 2003

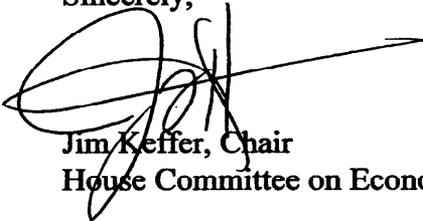
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The residents of Long Island Village are claiming in part that Long Island is "an island bordering on the Gulf of Mexico," and, therefore, they assert the area they wish to incorporate would qualify under this aspect of the exception created by §43.902 Local Government Code.

This assertion surprises Port Isabel because it is widely believed that Long Island, like Port Isabel, borders the Laguna Madre Bay, not the Gulf of Mexico. This belief is supported by §77.001 Texas Parks and Wildlife Code that defines "outside water" as seaward from the shoreline of the state along the Gulf of Mexico as the shoreline is projected and extended in a continuous and unbroken line, following the contours of the shoreline, across bays, inlet, outlets, passes..." Also, §77.001(2) Texas Parks and Wildlife Code defines "inside waters" as all bays inlets, outlets, passes...landward from the shoreline fo the state along the gulf of Mexico and contiguous to, or connected with, but not a part of, the Gulf of Mexico..."

Therefore, the city of Port Isabel would like an opinion determining whether or not Long Island Village borders the Gulf of Mexico. Thank you for your time and consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Keffer', with a long horizontal line extending to the right from the end of the signature.

Jim Keffer, Chair

House Committee on Economic Development