

INTERIM EXECUTIVE DIRECTOR
Cynthia L. Reed



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Texas Building and Procurement Commission

May 12, 2004

The Honorable Greg Abbott
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

FILE # ML-43698-04
I.D. # 43698

RQ-0225-GA

Re: Request for an Attorney General Opinion

Dear General Abbott:

I hereby request an Attorney General Opinion on the matter set forth below.

House Bill 41, 35th Legislature (1917), provided that the State of Texas grants to the city of Austin use of the plot or square of land from the original plat of the City of Austin, Texas, made in A.D. 1839, of the block of ground in the City of Austin, Texas, bounded on the North by Fifth Street, on the South by Fourth Street, on the East by Guadalupe Street, and on the West by San Antonio Street for a period of ninety-nine years, provided that the State "does not by this Act part with any title, color of title or interest which it now owns in the property." This act took effect ninety days after adjournment. Today, this piece of land is referred to as "Republic Square" by the City of Austin.

Attorney General Opinion No. V-741, by the Honorable Price Daniel, dated December 16, 1948 states in summary, "Public squares shown on the 1839-1840 maps of the City of Austin do not belong to the Public School Fund and may not be sold as such. Their disposition is a matter wholly within the province of the Legislature."

The first question posed is whether any act of the Legislature, Attorney General Opinion, or transaction involving the State subsequent to 1948 effectively changed the ownership status of this property. The second question posed is whether any specific agency of the State owns or holds title to said property on behalf of the State and whether such agency is empowered to execute contracts to lease said property or otherwise manage said property. Or, in the alternative, is the management of said property a matter still wholly within the province of the Legislature?

These questions arise out of a request from the United States General Services Administration to the City of Austin and the State of Texas to abandon the section of San Antonio Street between 4th and 5th Street. This street vacation request is being made in

connection with the proposed new Federal Courthouse project on Block 46 (former Intel Site) bounded by West 5th Street on the North, San Antonio Street on the East, West 4th Street on the South and Nueces Street on the West.

Current federal guidelines require building setbacks of 50 feet from streets for security reasons. Block 46 would be too small for a courthouse given the setbacks as all four sides have existing streets. To the East of Block 46 is Republic Square, separated by San Antonio Street. If San Antonio Street is vacated then the project becomes feasible. Republic Square and the vacated street area will be landscaped compatible with the federal courthouse.

Senate Bill 18, 41st Legislature (1929), 3rd Called Session relinquished the streets and alleys in the City of Austin to the center of the street to each adjacent land owner. Therefore, to vacate this section of San Antonio Street, the City of Austin and the State of Texas must both enter into such an agreement.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Reed".

Cindy Reed
Interim Executive Director

CR/ej