

TEXAS HOUSE OF REPRESENTATIVES
COMMITTEE ON PUBLIC HEALTH

SENFRONIA THOMPSON

Chair

December 20, 2019

Office of the Attorney General
ATTENTION: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

sent via email to: opinion.committee@oag.texas.gov

RE: Attorney General opinion regarding the legality of a school district operating a cemetery

Dear Committee:

In April of 2018, Fort Bend ISD discovered the skeletal remains of 95 African-Americans at a Sugarland school construction site. Archeologist determined this was an unmarked burial ground of the former Imperial State Prison Farm and these remains were victims of the state-sanctioned convict leasing system.


State law does not permit a public school district to create a cemetery as a school district cannot expend public funds intended for education purposes on the creation or operation of a cemetery. State law does permit a county to own and operate a cemetery. An interlocal agreement was made between Fort Bend ISD and Fort Bend County to allow the county to take over and maintain the cemetery. Unfortunately, the interlocal agreement fell through.

Fort Bend ISD formally re-interred the remains last month, but have not set up a community partner to operate the cemetery. Fort Bend ISD claims that state law permits any owner of a property upon which an abandoned cemetery is discovered (including a school district) to maintain ownership of the cemetery after its discovery. In other words, a landowner does not automatically lose, and is not legally required to transfer ownership of a cemetery upon discovery. The district can, however, elect to transfer the cemetery to an entity that is legally authorized to take ownership of it. This would include a municipality, county or a perpetual care cemetery.

My legal question is: According to state law, can a school district legally operate a cemetery by themselves?

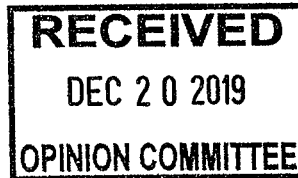
I appreciate your time and attention to this request.

Sincerely,


State Rep. Senfronia Thompson
Chair

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JOHN WRAY

Vice-Chair