THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

July 18, 1989

Mr. Jack Fassetta
Chairman
Appraisal Review Board
Galveston Central Appraisal District
P. O. Box 3647
Texas City, Texas 77592-3647

Dear Mr. Fassetta:

This will acknowledge receipt of your letter of June 2, 1989, regarding ID# 6424, a complaint to this office by Mr. Wayne Jobe. This decision is OR89-221.

As chairman of the Galveston Central Appraisal District, you are not the custodian of the district's records. Section 5(a) of article 6252-17a, V.T.C.S., the Texas Open Records Act, provides:

> The chief administrative officer of the governmental body shall be the custodian of public records, and the custodian shall be responsible for the preservation and care of the public records of the governmental body. It shall be the duty of the custodian of public records, subject to penalties provided in this Act, to see that the public records are made available for public inspection and copying; that the records are carefully protected and preserved from deterioration, alteration, mutilation, loss, removal, or destruction; and that public records are repaired, renovated, or rebound when necessary to preserve them properly. When records are no longer currently in use, it shall be within the discretion of the agency to determine a period of time for which said records will be preserved. (Emphasis added.)

Although the chairman of the district may not be considered the chief administrative officer of the district, officers and employees of the district have a duty to see that open records requests are directed to responsible individuals or

to the custodian of records. See Open Records Decision No. 497 (1988) (copy enclosed).

Unfortunately, the letter dated February 6, 1987, from Mr. Jon Bible, formerly of this office to Mr. Guy Emanis is incorrect. The letter states that the Open Records Act does not entitle individuals to copies of public records. Open Records Decision No. 152 (1977) states that the act "gives the requesting party the option to take notes from or pay for the duplication of public records, or both." See also Open Records Decision No. 38 (1974); V.T.C.S. art. 6252-17a, § 5(a) (provides for inspection "and" copying). Formal decisions of this office control over letters. We regret any inconvenience your reliance on the February 6, 1987 letter may have caused. Moreover, the Texas Supreme Court has indicated that public records should be provided in the least expensive form possible.

See Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668, 687 (Tex. 1976), cert. denied, 430 U.S. 931 (1977).

We hope that this informal ruling addresses the concerns your letter raises. Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-221.

Yours very truly,

Open Government Section
of the Opinion Committee

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of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/bc

cc: Wayne Jobe (with enclosures)
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Ref.: ID# 6661
ID# 6421

Enclosures: ORD-152
ORD-497