



**THE ATTORNEY GENERAL
OF TEXAS**

June 14, 1989

**JIM MATTON
ATTORNEY GENERAL**

Honorable Jerry Cobb
Criminal District Attorney
Denton County
P. O. Box 2344
Denton, Texas 76201-2899

LO-89-49

Dear Mr. Cobb:

This is in regard to your request for an attorney general opinion (RQ-1713) which was received in this office on May 2, 1989. You ask whether Denton County is responsible for maintenance of a portion of road in the county that had previously been within the corporate limits of the city of Oak Point. You say that the city and county had, while the portion of road was within the city limits, entered into an interlocal agreement for roadwork on the road but that the agreement was subsequently terminated by the city with the county's approval. Later the city disannexed territory containing the portion of road in question. You ask that for purposes of our response it be assumed that the disannexation complied with applicable law.

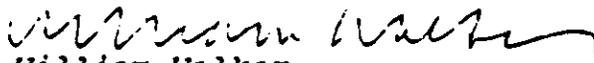
You state further that the portion of road in question is a "public road" under the definition in section 2.001 of the County Road and Bridge Act, V.T.C.S. article 6702-1.

On the facts you present, it appears that maintenance of the road is now the county's responsibility. See V.T.C.S. arts. 6702-1, § 2.002(b)(1) ("The commissioners court may make and enforce all reasonable and necessary rules and orders for construction and maintenance of public roads except as prohibited by law."); 2351(5) (the commissioners court shall exercise general control over all roads in the county). See, e.g., County of Harris v. Eaton, 573 S.W.2d 177 (Tex. 1978) (duty of county under Tort Claims Act with respect to condition of county road). We find no provision of law relieving the county of responsibility for maintenance of the portion of road in question or, conversely, imposing any such responsibility on the city

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subsequent to its lawful disannexation of the territory
containing said portion of road.

Very truly yours,



William Walker
Assistant Attorney General
Opinion Committee

APPROVED: Sarah Woelk, Chief
Letter Opinion Section

WW/SW/mc

Ref.: RQ-1713
ID# 6336