



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

November 13, 1990

Mr. Leon Willhite
Executive Director
State Property Tax Board
Austin, Texas 78746-6565

LO-90-89

Dear Mr. Willhite:

You ask whether, in a specific fact situation in Galveston County, certain submerged real property bordering the Gulf of Mexico, including the unsevered mineral interest, is taxable for ad valorem purposes to what you term the "grantees" of the property or whether such property is owned by the state and is therefore exempt from ad valorem taxation. See Attorney General Opinion JM-1049 (1989). Additionally, you ask a more general question, namely, whether, as a matter of law, submerged real property, including the unsevered mineral estate, bordering the Gulf of Mexico and saltwater lake, bay, inlet, estuary, or inland water within the tidewater limits is owned for property tax purposes by the state or by persons to whom the real property is formally deeded. You inform us that this question is of great concern, not only in Galveston County, but in every county bordering the gulf.

We conclude that all submerged real property bordering the Gulf of Mexico is presumed to be the property of the state. However, whether any specific parcel of real property is the property of the state is a issue of fact that cannot be determined in the opinion process.

Chapter 11 of the Natural Resources Code sets forth provisions generally applicable to the public domain. Subchapter B of chapter 11 of the code governs the territory and boundaries of the state. Section 11.012 of the code defines the gulfward boundary of the state and provides in pertinent part:

(c) The State of Texas owns the water and the beds and shores of the Gulf of Mexico and the arms of the Gulf of Mexico within the boundaries provided in this section, including all land which is covered by the Gulf of

Mexico and the arms of the Gulf of Mexico
either at low tide or high tide.¹

The phrase "waters of the Gulf of Mexico" has been construed to mean not only waters in the bed of the gulf alone but to embrace all bays, inlets, and streams on the gulf coast, to the extent to which they are subject to the ebb and flow of the tide. See Crary v. Port Arthur Channel & Dock Co., 47 S.W. 967 (Tex. 1898); Curry v. Port Lavaca Channel & Dock Co., 25 S.W.2d 987 (Tex. Civ. App. - San Antonio 1930, no writ).

The state is presumed to own all submerged land. Luttes v. State, 324 S.W.2d 167 (Tex. 1958); City of Galveston v. Mann, 143 S.W.2d 1028 (Tex. 1940). Ordinarily, a grant of land along the seacoast does not pass title to any land that is covered by the water. Galveston City Surf Bathing Co. v. Heidenheimer, 63 Tex. 559 (1885); City of Galveston v. Menard, 23 Tex. 349 (1859). The grantee takes only to the shoreline. Galveston v. Menard, supra.

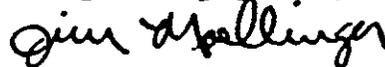
The shoreline, which marks the boundary between public and private ownership, was fixed by the common law at the point reached by ordinary high tide. Galveston City Surf Bathing Co. v. Heidenheimer, supra; City of Galveston v. Menard, supra. See also DeMeritt v. Robison, 116 S.W. 796 (Tex. 1909). However, under Spanish-Mexican law, which governs abutting Spanish or Mexican grants, the landward line of the shore is that of mean higher high tide, rather than the mean high tide of the Anglo-American law. Luttes v. State, supra. Therefore, grants made since the adoption of the common law as the rule of decision in this state extend to the line of ordinary high tide, Galveston City Surf Bathing Co. v. Heidenheimer, supra; City of Galveston v. Menard, supra, while those made prior to that time reach to the line of mean higher high tide. Luttes v. State, supra.

1. Subsection (d) of section 11.012 of the code provides:

None of the provisions of this section may be construed to relinquish any dominion, sovereignty, territory, property, or rights of the State of Texas previously held by the state. (Footnote added.)¹¹¹

In the fact situation about which you ask, you describe the persons "to whom the property is formally deeded" as "grantees." Whether the real property about which you ask is, in fact, submerged land, and, if not, whether any grant by the state of such property includes the real property at issue are questions of fact that cannot be determined in the opinion process. Accordingly, we decline to answer your request.

Very truly yours,



Jim Moellinger
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RG/SW/mc

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