

1984 to 2006: Guide to Three Lawsuits over Reserve Lands East of Lamar

by Joe Riddell, June 2026

As a lawyer in the Texas Attorney General's office I had various roles in litigation related to the use of Sand Beach Reserve for access to private properties east of Lamar and north of West First Street (later named Cesar Chavez) as well as the boundary of the Reserve. I have had mixed success in relocating the related documents. Below is a guide to the history. See the actual documents for details.

FIRST LAWSUITS

1984 On October 4 the City Council approved the use of Sand Beach Reserve for an access driveway for a proposed office building on Lot A of the Jetco Subdivision, 1.94 acres just east of Lamar and north of East First Street. The approval was conditioned on Townlake Joint Venture's agreement to make various improvements and pay money to the City. On October 17 the council approved a site plan for the building that included using part of the Reserve as TJV's parking lot. Three Lady Plaintiffs (Mary Arnold, Roberta Crenshaw, and Susan Toomey Frost) sued. They "won" because the City had not published in the newspaper the required public notices of the proposal to use the Reserve for non-parkland use.

1985 Recognizing its earlier failure to provide the required public notice, the Council on January 10 again approved Townlake Joint Venture's use of the Reserve for a proposed 15-story office building. The three "Lady Plaintiffs" again sued, and in July the Attorney General filed suit. The lawsuits were consolidated by a district court judge. The proper location of the boundary of the Reserve was not in issue. On the other hand, after realizing that there was a conflict in the boundary, the State added a claim that the city as owner had a responsibility to investigate the boundary as part of its public trust duty to protect the public ownership of the Reserve and its restriction to public purposes.

1986 The trial court ruled in favor of the city and TJV.

1987 The State's brief on appeal included in its appendices some research notes by Joe Riddell about the history of the Reserve and its boundary. (The case did not actually litigate the boundary.)

1987 On November 25 the court of appeals ruled the case was moot, vacated the judgment, and dismissed the case. In its ruling, the court noted: "Townlake persuaded the City to enact ordinances, one of which is in the nature of a conditional contract, dedicating certain city parkland for Townlake's benefit and use." Townlake, however, lost the property through foreclosure by Lumbermen's Investment Corporation. The opinion continued, "It is apparent, therefore, that Townlake presently lacks the capability to develop Lot A as previously planned. And there is nothing in the record to suggest that Lumbermen's or anyone else intends to develop Lot A or otherwise assert any rights under the ordinances. Indeed, we can find no authority indicating Lumbermen's or anyone else could assert any rights under these ordinances."

SECOND LAWSUIT

In the late 1980s the Cedar Door Bar was relocating (temporarily) to a 3.19 acre tract east of Lot A and south and west of the railroad tracks. In 1989 the City of Austin and the Cedar Door bar entered into a Use and Maintenance Agreement to allow the bar's employees and patrons to utilize specific driveways and parking areas in Sand Beach Reserve.

The driveways and parking areas had been built under a 1974 Beautification Agreement between the City and earlier tenants of the property. The Texas Attorney General sued the city, seeking declarations that the public purpose clause in the State's 1945 deed to the City imposed a restriction on the use of the Reserve and that the City's agreement with the bar violated the restriction. The Missouri and Pacific Railroad Company (MOPAC) intervened, claiming it was entitled to a way of necessity across the Reserve. Just before trial the railroad claimed instead that the driveways and parking areas had been impliedly dedicated to the public.

1992 The trial court ruled there had been an implied dedication of the driveways and parking areas. It further ruled that the Reserve was not restricted to public purposes and that the State lacked standing to sue over it.

1993 On appeal, on August 25 the Third Court of Appeals ruled that the phrase "for public purposes" imposed a restriction on the City's use of the Reserve. However, the court found that the driveways and parking areas previously built on the Reserve served a public purpose and had been impliedly dedicated to the public.

The appeals court ruled that the State had no standing to enforce the restriction. It stated, "The restriction must be enforced by the City, as the City best interprets the public interest, subject to legal or political complaints from its citizens." In response to the court's ruling on standing, in 1997 the Texas Legislature adopted Natural Resources Code sec. 31.068. Among other provisions, it grants standing to the Land Commissioner and the Attorney General to enforce a "restriction expressed in a transfer document or legislative act conveying property then owned by the state."

THIRD LAWSUIT

In the late 1990s private parties and the Attorney General called on the City to assert ownership of two acres of the Reserve east of Lamar that Lumbermen's Investment Corporation (LIC) was claiming, based on an incorrect 1916 survey by O.E. Metcalfe. An Austin Chronicle article on October 1, 1999, described the circumstances the City faced in its dual role as owner/steward of the Reserve and regulator of development. The city hired outside counsel for the potential boundary suit while city offices reviewed the development proposal as if there were no boundary conflict. Eventually in 1999 the City sued LIC over the portions of the 1.94 and 3.19 acre tracts that included Reserve lands. The City's position was that Metcalfe's survey wrongly located the southern boundary of Outlot 11 (the northern boundary of the Reserve), and instead the boundary should be based on the subdivision plat filed by James Raymond in 1885.

Over the months much give and take occurred between the City and LIC and others. The situation was complicated because there were interconnected roadways and parking areas on the Reserve that the private properties located to the north had the rights to use. The major thrust of a proposed settlement was that Lumbermen's would give up its rights to use the roadways and parking areas if the City dropped its claim to most of the 2 acres in dispute and provided an alternative access route.

In January 2001 the City and LIC signed a formal Settlement Agreement. The State then intervened to protect its property interests in the Reserve. It asked for a judgment recognizing the disputed land as being part of the Reserve and belonging to the City and the State. The agreement's main provisions were to use the Metcalfe line as the boundary (except for a 0.609 acre wedge of land on the east) and build a new grid of access roads in the Reserve. There were some other provisions related to strips of land closer to the railroad tracks, contingent upon LIC's receiving approval for specified zoning (and ultimately a site development permit) for a mixed-use project with 400,000 to

500,000 square feet. A potential railroad underpass for bikes and pedestrians, leading to an intermodal transit plaza, was included. However, in September 2001 the Austin City Council voted down a requested zoning change incorporating the Settlement Agreement. Major opposition focused on the changes sought to increase the heights of the buildings.

The 2001 Settlement Agreement was superseded by a “Master Agreement” in 2006 between the City and two limited partnerships that had bought Lumbermen’s remaining 4.524 acres. The related city ordinance, no. 20060202-032, is 324 pages long. Its road network is on the ground now. It included an extension of the Pfluger bridge leading to a bike and pedestrian path between buildings. But a planned railroad underpass near Bowie Street for bikes and people was never built. (The City said it would cost too much.) A meadow in the 2001 design was replaced by a water quality pond next to Lamar. Critics complained about how much of the Reserve was given over to use for private properties.

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