



Jerry  
Patterson,  
Commissioner

# A Line in the Sand:

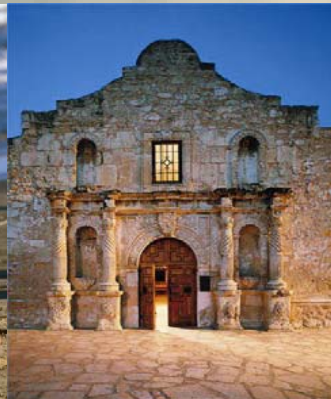
Balancing The Texas Open Beaches Act and  
Coastal Development

**By Eddie R. Fisher, Director of Coastal  
Protection**

**& Angela L Sunley, Beach/Dune Team Team Leader  
Coastal Resources Program Area, Texas General Land Office**

**10<sup>th</sup> Annual Southern & Caribbean Regional Meeting**

**November 5-8, Lafayette, Louisiana**





# "Coastal Highway"



July 11, 1937 - Park at Nueces Bay Causeway



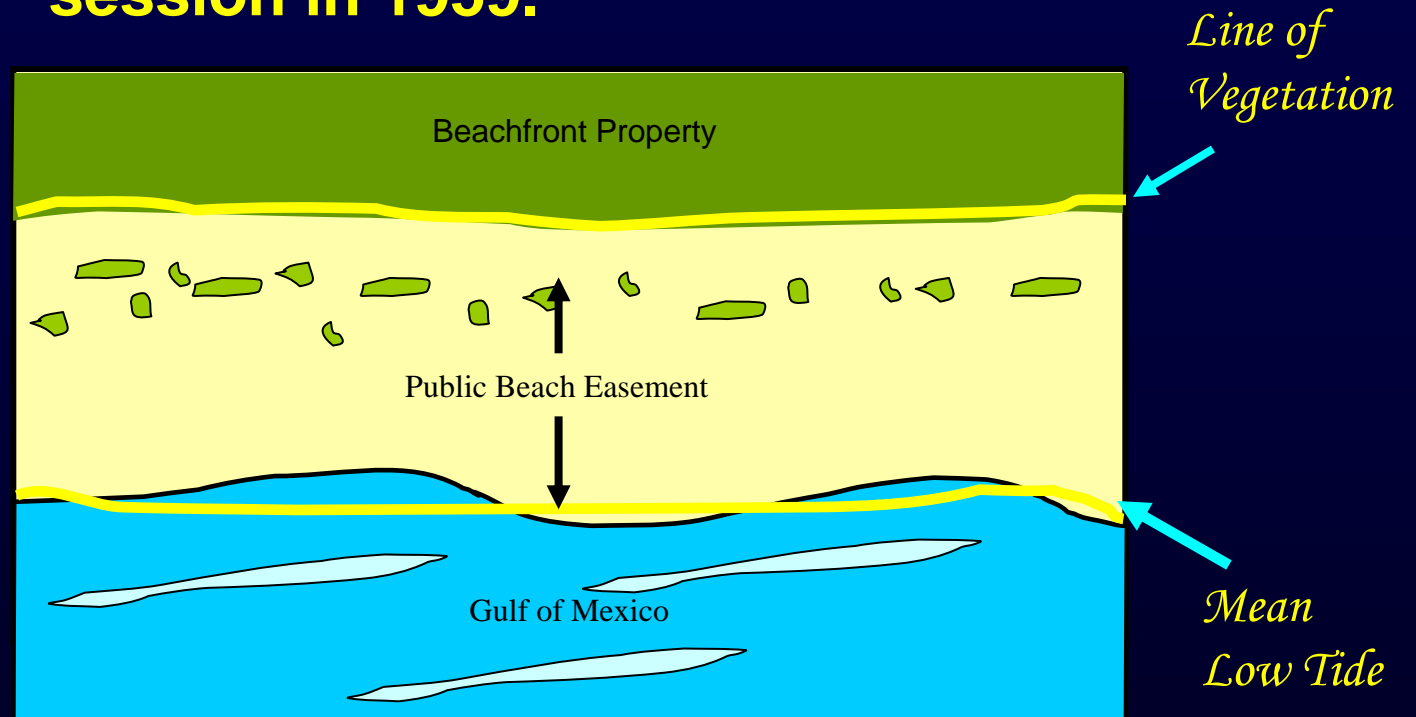


- State Owned Lands and Private Property Boundary Disputes
  - Roots in mineral rights ownership
- Luttet vs. State Supreme Court (1958)
  - Historically the Line of Vegetation delineated the boundary of private property
  - The 1958 Ruling established the Mean Highest High Tide as the boundary between state owned lands and private property
  - Private property owners fenced off beaches
  - Public reacted negatively





**In response to the public's discontent, the Open Beaches Act was enacted during a special Legislature session in 1959.**



**This established the public beach easement that crosses private property**





## ■ The Intent of the OBA

- provides that the public has acquired the right to use the beach as established by public trust doctrine and common law

-declared it to be public policy that the public has the right of free and unrestricted ingress and egress from the public beach easement

-prohibits any local government or individual from creating, erecting or constructing any obstruction, barrier, or restraint that will interfere with the public's right to enter or leave any public beach.







## ■ Pressure of Development

- Multi-million dollar condos and homes constructed on beachfront lots
- Beachfront property owners are increasingly requesting that local governments close the beaches to vehicular traffic
- Public access may continue to change from vehicular to pedestrian
- Local governments struggle with balancing the desires of beachfront property owners and public's right of access



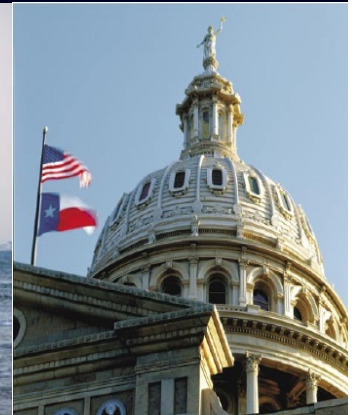


## ■ Responsive Action by the State of Texas

-Day use of Texas beaches contributes \$2.6 billion to the Texas economy

-To balance the economic importance of public beach access and coastal development, the OBA was amended in 1991 to give the GLO authority to promulgate rules

-These rules established guidelines for local governments to develop beach access and dune protection plans consistent with the OBA, DPA, and Beach/Dune Rules





## ■ Implementation of the Beach/Dune rules

- Issues arose with overlaying rules onto existing private developments
- The GLO must certify all requests for plan amendments addressing vehicular controls and beach access as consistent with Beach/Dune rules, the OBA and the Dune Protection Act
- Some local governments require developers to incorporate public beach access in development plans

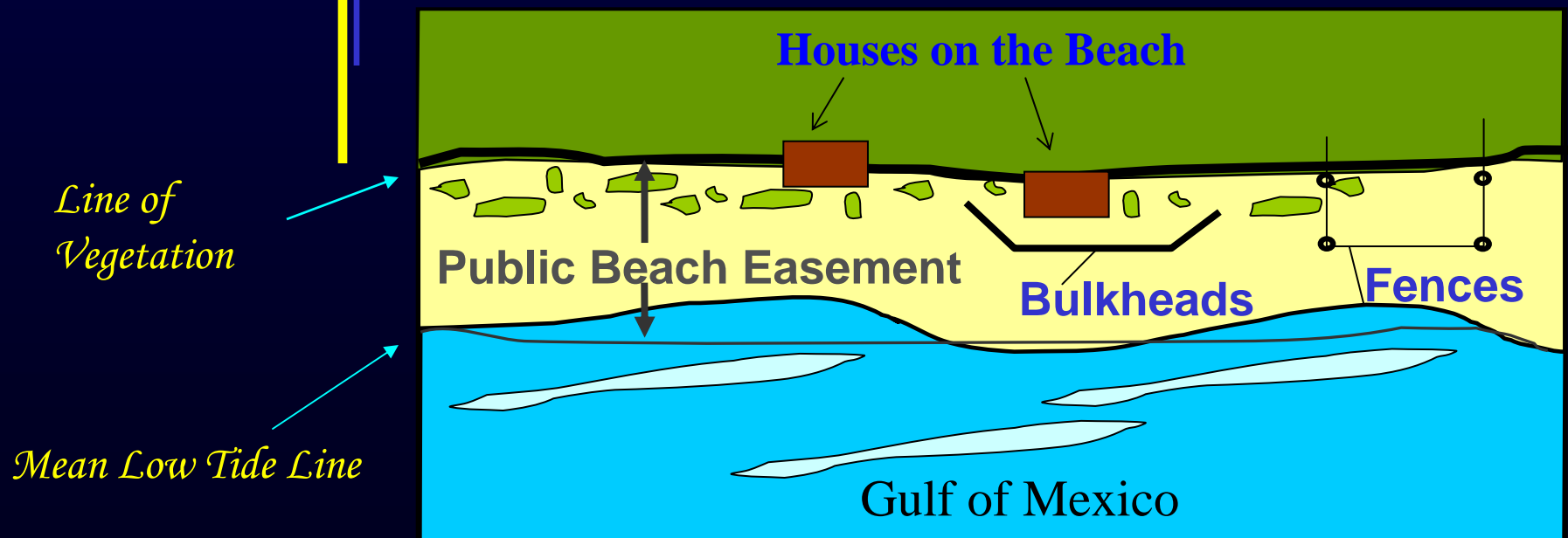






## ■ Encroachments on access and the “rolling easement”

- The public beach easement is a rolling easement
- Erosion in conjunction with the rolling easement leads to homes and structures located on the public beach easement
- These structures are subject to enforcement through civil litigation

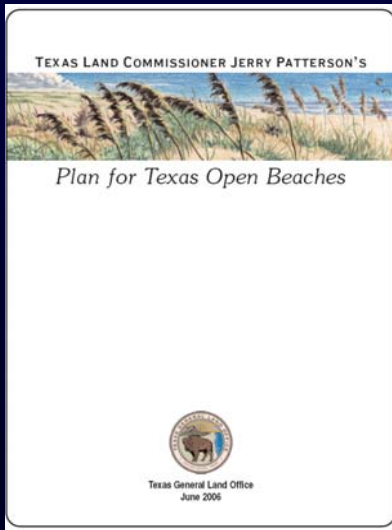




## Standards for Enforcement

- Public health and safety risk
- Hanging concrete foundations
- Pipes, rebar, and metal sheeting
- Exposed fill from bulkheads (old vehicles, concrete blocks, tires and debris)
- Prevents or inhibits free and unrestricted access to the public beach





# ■ The Plan for Texas Open Beaches

- Established guidelines for enforcement
- Categorized by immediate threat to public health and safety
- For homes 100% seaward of LOV, the GLO offered up to \$50,000 for assistance with removal or relocation
- The GLO allocated \$1.3 million for this on-going effort
- May still use civil suits to remove structures from the public beach easement or State owned submerged lands







## ■ The Future

- The Commissioner will strictly and vigorously enforce the OBA
- Texas' population will more than double to 43 million by 2050
- The GLO will assist local governments and developers with meeting the growing need for public access in the planning process





# Texas General Land Office Commissioner Jerry Patterson

For More Information about GLO's Beach and Dune  
Program:

[www.glo.state.tx.us](http://www.glo.state.tx.us)

[Angela.Sunley@glo.state.tx.us](mailto:Angela.Sunley@glo.state.tx.us)  
[Eddie.Fisher@glo.state.tx.us](mailto:Eddie.Fisher@glo.state.tx.us)  
1-800-998-4GLO