

Public Input, Texas Historical Commission

My name is Frederick Bothwell. I am a member of the West Point Association of Graduates, the TSHA and the CTHA. I have concerns regarding the process by which errors identified by contemporary historical research are corrected on the state's historical markers—or not—depending solely on unilateral administrative decisions of the Texas Historical Commission.

These concerns fall within your charge to review how the agency addresses well-documented requests for corrections and review of previous determinations (many made half a century ago) in the light of new and additional historical research endorsed by other non-governmental historical associations, e.g., the Texas State Historical Association.

The solution is clear—for the Legislature to amend Chapter 442 of the Government Code to make the THC subject to the Contested Case procedure regarding disputes over text on existing markers.

According to its online rules the THC is the “final authority” in all decisions regarding disputes over the text on existing markers. That is the extent of its marker correction process.

Any public or private entity or citizen disputing a THC decision is typically denied access to the Alternative Dispute Resolution process generally required of other state agencies. The THC will in fact deny that a dispute exists, in the face of a contrary opinion by the TSHA.

Although the agency seems obligated by statute to offer Alternative Dispute Resolution it has notably declined to do so when the outcome would not likely to be in its favor.

Such a practice, where there is no oversight of an agency’s actions encourages abuse, i.e. the agency is free to make unchallenged decisions in its own self-interest rather than that of the public which its commissioners were appointed to serve.

Despite bogus claims by the agency opposing this legislation there would no fiscal implications, primarily because the agency would refrain from abusing its autonomous authority and would submit to alternative dispute resolution. But also, in the last seven years there have been an average of three such application per year, all approved without cost.

We have already provided your respective staffs with examples of abuse, and with the reasons why the agency’s objections to the amendment are entirely without merit.

We ask you to amend the Sunset Report to recommend the Legislature amend Chapter 442 subjecting the agency to the contested case procedure regarding applications involving disputes over the correction of text on existing markers.