



**JUDGE BAYLOR WORTHAM**  
**136<sup>th</sup> Judicial District Court**

Jefferson County Courthouse  
1085 Pearl Street, Room 204  
Beaumont, Texas 77701  
(409) 835-8481 Fax: (409) 784-5814  
co.jefferson.tx.us

January 15, 2025

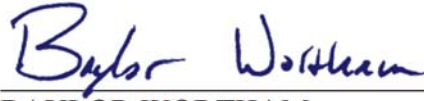
**Re: Cause No. D-204,407; *Raul Isern v. City of Beaumont*, Letter Ruling on Defendant's Motion for Summary Judgment**

Dear Counsel,

I have reviewed the City of Beaumont's motion for summary judgment and have considered the evidence presented by both parties, the existing law in Texas, and the arguments of the parties, and have made the following findings. The primary issue before the Court is whether the evidence establishes the City's actual knowledge of the alleged roadway defect, as required by Tex. Civ. Prac. & Rem. Code § 101.022. Given the state of the evidence, the Court finds that *Tex. Dept. of Transp. v. Lofton*, 2023 Lexis 7969 (Tex. App.—Beaumont 2023) and *Hindman v. State Dep't of Highways & Pub. Transp.*, 906 S.W.2d 43 (Tex. App.—Tyler 1994) to be dispositive authority in this case. Although the Court does find that the Plaintiff has presented sufficient evidence as to whether the condition created an unreasonable risk of harm, the evidence has not established that the City had actual knowledge of the defect. Although the city was responsible for supervising and inspecting the prior asphalt resurfacing of the roadway around the water valve cover, the undisputed evidence established that the hazard was not present when the original construction was performed, but rather, developed over approximately 10 years from the slow deterioration of the surrounding asphalt. Given the existing state of Texas law, the Court cannot find that this evidence would be sufficient to establish constructive knowledge on the part of the City of Beaumont.

Accordingly, with respect to the City of Beaumont's no evidence motion for summary judgment, the Court finds that the Plaintiff has failed to present sufficient proof of actual knowledge, and summary judgment must therefore be GRANTED. The City of Beaumont is hereby instructed to prepare a proposed order consistent with this ruling.

Sincerely,

A handwritten signature in blue ink that reads "Baylor Wortham". The signature is written in a cursive style with a large initial "B".

---

BAYLOR WORTHAM  
Presiding Judge, 136th District Court  
Jefferson County, Texas