



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL,
ATTORNEY GENERAL

November 10, 1976

The Honorable Otis King
City Attorney
P. O. Box 1562
Houston, Texas 77001

Open Records Decision No. 146

Re: Are election returns,
applications for candidacy,
and campaign expenditure
reports public under Open
Records Act.

Dear Mr. King:

You have received six requests for information concerning city elections, including precinct election returns for mayor and city council races in 1955, 1957, 1959; applications by candidates for the office of city council member and mayor since 1955; and all campaign expenditure reports, forms, or other documents containing information relating to candidate expenditures for the offices of city council member and mayor.

It is the City's position that this information is excepted from required public disclosure under section 3(a)(3), which excepts information relating to litigation to which the city is a party that the attorney for the city has determined should be withheld from public inspection. You explain that the City is involved in litigation challenging the constitutionality of the City's current councilmanic scheme in federal court.

The returns of elections are required to be made public by law and in fact are public by long tradition. The canvassing of votes and the public announcement of the results is an integral part of the election process, and the writ of mandamus will lie to order the canvass of returns and the declaration of the results. Grant v. Ammerman, 437 S.W.2d 547 (Tex. Sup. 1969); 25 Am. Jur.2d Elections, § 298, at 122-123.

The returns of elections are a matter of the greatest public interest in a democracy, and the Texas Election Code contains numerous provisions requiring returns to be publicly announced from the time of the unofficial tabulation and announcement of results immediately after the closing of polls (Election Code arts. 8.24, 8.25, § 4) through the canvassing and official tabulation of returns and the filing for public inspection of such returns by the responsible officials (Election Code art. 8.29a).

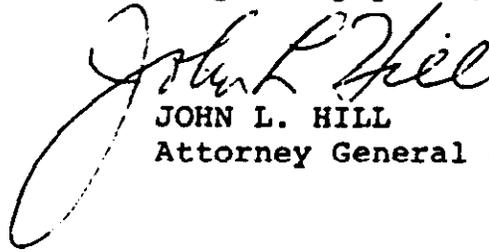
Campaign contribution and expenditure reports are specifically required to be made open to public inspection by article 14.07(L) of the Election Code. The filing of an application for a position on a ballot is a public act. See Election Code art. 14.01(A)1. We believe that the application, which is the official record of that public act, is a public document.

The Texas Election Code is designed so "that the will of the people shall prevail and that true democracy shall not perish from the Lone Star State." Election Code art. 1.01. The purpose of the Open Records Act is to provide the people "full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." V.T.C.S. art. 6252-17a, § 1. To entertain the suggestion that the Texas Open Records Act exception you cite has the effect of permitting withholding of information concerning elections from the public would, in our view, be directly contrary to the stated purposes of both the Election Code and the Open Records Act.

We have previously held that information which is specifically made public by statute is not excepted from disclosure by section 3(a)(3) of the Act. Open Records Decision No. 43 (1974). We believe that that decision is applicable in this case.

It is our decision that election returns, applications by candidates for a position on the ballot as mayor or council member, and campaign contribution and expenditure reports are public information and the the exception contained in section 3(a)(3) of the Act does not permit such information to be withheld from public inspection.

Very truly yours,

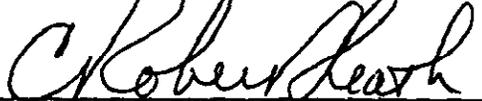


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APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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