



THE ATTORNEY GENERAL
OF TEXAS

January 31, 1989

JIM MATTOX
ATTORNEY GENERAL

Honorable Charles C. Bailey
District Attorney
76th Judicial District of Texas
P. O. Box 249
Mt. Pleasant, Texas 75455

Dear Mr. Bailey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5448; this decision is OR89-43.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Titus County Appraisal District received an open records request for copies of plat maps of the ownership of land within the taxing authority of the city of Mount Pleasant and the Mount Pleasant Independent School District. You inquire whether these maps are public records.

You state that the tax collector for these taxing authorities contracted with an individual to prepare these maps in 1973 at the cost of \$30,000. The fact that the appraisal district initially purchased these maps from an individual rather than preparing them itself is irrelevant as to whether they are public documents. Cf. Open Records Decision No. 231 (1979) (fact that information was generated by another entity is irrelevant to a determination of whether it is public when in the possession of a governmental body). The appropriate test to determine whether information may be withheld from the public is

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whether the requested documents come within one of the exceptions listed in section 3(a) of the Open Records Act.

You have raised none of the act's exceptions with regard to these maps, nor have you raised any arguments as to why these maps should not be reproduced. In a telephone conversation with this office, the chief appraiser of the Titus County Appraisal District stated that these maps have traditionally been open to the public. Section 6(15) of the act expressly makes public "information currently regarded by agency policy as open to the public." Consequently, the maps in question constitute public information.

We note that there has been a continuing controversy as to the amount of cost the requestor of these maps must incur for the reproduction of these maps. Charges for copies of public records cannot be excessive; they must equal the actual cost of producing the copy. See Open Records Decision No. 489 (1988). Also, a member of the public has a limited right to use his own copying equipment to reproduce public records. See Attorney General Opinion JM-757 (1987).

Finally, the Open Records Act entitles members of the public to the prompt production of public information. Open Records Decision No. 121 (1976). The requestor of these maps has attempted to obtain these records since at least December 12, 1988. The records in question should, therefore, be released without delay.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-43.

Yours very truly,

Open Government Section
of the Opinion Committee *JSR*

Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
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JSR/RWP/bc

Copies to: Maydelle Renfroe
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