



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

February 27, 1990

Honorable Jan Farris
Mayor of Krum, Texas
912 Clearview
Krum, Texas 76249

OR90-085

Dear Mayor Farris:

Thank you for your letter of February 7, 1990, designated ID# 8878, in which you raise a number of questions about a decision in an open records matter addressed to Mr. Tony Haddock. That decision, OR90-015, stated that a notebook you kept was a public record.

Apparently Mr. Haddock only had certain pages of the notebook in his possession. The individual who requested the pages in Mr. Haddock's possession now has requested that you make the entire notebook available to her. We will consider your letter of February 7 a request for a decision regarding the remainder of the notebook.

You state that the city attorney advised you that the notebook could be withheld from public disclosure during litigation. There is a "litigation exception" in the Open Records Act. V.T.C.S. art. 6252-17a, § 3(a)(3). However, it is the responsibility of the governmental body that requests an open records decision from this office to raise that exception. Mr. Haddock did not raise that exception in his request for a decision. We construe your letter of February 7 as raising the litigation exception in regard to the remainder of the notebook.

Section 3(a)(3) of the Open Records Act allows a governmental body to withhold from public disclosure information relating to litigation to which the governmental body is or may be a party. You state that the individual who has asked to see your notebook has filed an EEOC complaint against the city. When such a complaint has been filed, litigation is reasonably anticipated and section 3(a)(3) is applicable. Open Records Decision No. 270

(1981). The sample page you submitted deals with the individual who filed the complaint. You may withhold that page and any other pages that are relevant to the EEOC complaint.

If you have questions about this ruling, please refer to OR90-085.

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

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Ref.: ID# 8878, 8937, OR90-015 (ID# 8878)

cc: Tony Haddock
City Councilman
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