



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

August 6, 1990

Honorable E.L. Lockhart  
Mayor, City of Springtown  
P.O. Box 444  
Springtown, Texas 76082

OR90-361

Dear Mayor Lockhart:

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# 9701.

The requestor seeks (1) information regarding the termination of the city police chief, and (2) information regarding the city's application for a certificate of convenience and necessity from the Texas Water Commission.

With respect to item (2), above, we have not received copies of the requested documents nor have you explained how the asserted exceptions from required public disclosure apply. Consequently, we have no basis for considering your claims and must direct you to release the requested information.

With respect to item (1), above, we have considered the exceptions you claimed, specifically sections 3(a)(2) and 3(a)(3), and have reviewed the documents at issue.

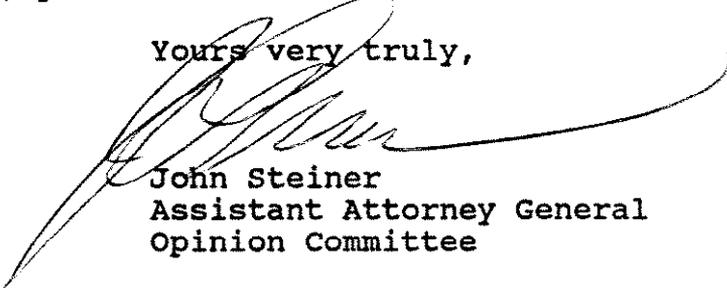
For exception from required public disclosure under section 3(a)(2), information must contain highly intimate or embarrassing facts about a person's private affairs the publication of which would be highly objectionable to a reasonable person, and not be of legitimate concern to the public. Open Records Decision No. 545 (1990). The performance of a city's chief of police is certainly of legitimate public concern.

For exception from required public disclosure under section 3(a)(3), litigation with respect to the subject matter of the requested information must be pending or reasonably anticipated. Open Records Decision No 551

(1990). You state that "Mr. Nix has apparently threatened to file suit" (emphasis added). This does not provide a basis for this office to determine that any anticipation of litigation in this matter is reasonable. Open Records Decision Nos. 351, 331 (1982). At any rate the litigation exception would not be applicable to information already in the possession of the potential adverse party. Open Records Decision No. 551 (1990). Accordingly, you must release the requested information.

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 OR90-361.

Yours very truly,



John Steiner  
Assistant Attorney General  
Opinion Committee

JS/le

Ref.: ID# 10171, 9701, 9318

Enclosure: Open Records Decision Nos. 551, 545, 351, 331

cc: Graham Quisenberry  
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