



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

November 20, 1990

Ms. Iris J. Jones
City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR90-545

Dear Ms. Jones:

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# 10261.

The Internal Audit Office of the city of Austin received a request for four items of information from a reporter; you ask for our decision regarding the public availability of some of the requested information.

You contend that item 1, the audit of the Leveraged Loan Pool Program, and one loan contained in the documents of item 2, should be excepted from public disclosure pursuant to section 3(a)(3), the litigation exception. Based on the representations in your letter, we agree that this information is related to pending litigation. You may, therefore, withhold the audit and the loan. See Open Records Decision No. 551 (1990). However, when this information becomes available to the parties to the litigation, through discovery or court order, the protection from disclosure afforded by section 3(a)(3) would no longer be justified, and the information should be released.

You seek to withhold the financial statements in items three and four, based on section 3(a)(1) and the common law right of privacy. We agree that this information is excepted from disclosure based on the common law right of privacy. See Open Records Decision Nos. 545 (1990); 523 (1989) (copies enclosed).

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 OR90-545.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 10261

Enclosure: Open Records Decision No. 551, 545, 523

cc: Brenda J. Breaux
Austin American-Statesman
166 E. Riverside Drive
Austin, Texas 78704