



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 26, 1992

Mr. Hugh W. Davis
Assistant City Attorney
Office of the City Attorney
The City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102

OR92-364

Dear Mr. Davis:

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# 16146.

The City of Fort Worth (the "city") received an open records request for copies of "two architectural renderings for proposed changes to the exterior of the Fort Worth Central Library." You contend that the requested information is not subject to the Open Records Act because, pursuant to provisions of the contract between the city and the architect, such drawings do not become the property of the city until the termination of the contract.

We agree. Clearly, a governmental body may make an enforceable contract with an architect to provide architectural services for construction of a public building. See *J.N. McCammon, Inc., v. Stephens County*, 89 S.W.2d 984 (Tex. 1936) (county contracted with architect to prepare plans and specifications for jail and courthouse improvements and to superintend construction); *Harris County v. Howard*, 494 S.W.2d 250 (Tex. Civ. App.--Houston [1st Dist.] 1973, writ ref'd n.r.e.) (dispute over architect's fee for contract to provide services for county in connection with design and construction of detention facility). In their contract, the governmental body and the architect could provide for numerous different dispositions of rejected drawings: the contract might provide that the architect keep all rejected drawings, destroy all rejected drawings, or do something else with the rejected drawings. The architect's duty to provide rejected drawings to the governmental body therefore depends on the provisions in the contract.

Section 6.3 of the contract between the city and the architect specifies that all designs shall become the property of the city when the contract is terminated. Article VI of the contract, of which section 6.3 is a part, applies to termination of the agreement and cessation of the architect's work before completion of the contracted-for services. If the architect completes the work under the contract, section 6.3 never becomes effective, and the rejected designs never become the city's property.

You advise that the contract with the architect has not been terminated. Thus, pursuant to the contract the rejected drawings remain the property of the architect; they are not the city's property. Accordingly, at this time the rejected drawings are not subject to the Open Records Act (*see* V.T.C.S. art. 6252-17a, § 3(a)), and the architect need not release the drawings to the requestor.

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 OR92-364.

Yours very truly,


Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee

KKO/RWP/lmm

Ref.: ID# 16146
ID# 16271

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