



Office of the Attorney General
State of Texas

June 28, 1993

DAN MORALES
ATTORNEY GENERAL

Ms. Lynn Rossi Scott
Rohne Hoodenpyle Lobert
Myers & Scott, P.C.
1323 West Pioneer Parkway, Spur 303
Arlington, Texas 76013

OR93-365

Dear Ms. Scott:

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# 20080.

The Grapevine-Colleyville Independent School District, which you represent, has received a request for information relating to the collection of delinquent taxes. Specifically, the requestor seeks "copies of all documents related to the proposal by Staples, Hampton & Porter to collect the delinquent taxes for the Grapevine-Colleyville Independent School District," including "the recommendation of the School Superintendent which was transmitted by memorandum to the Board of Trustees for the School District." You advise us that some of the requested information has been released to the requestor. You have submitted to us for review, however, the remaining information, parts of which you contend constitute "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency" under section 3(a)(11) of the act and, therefore, excepted from public disclosure.

For several months now, the effect of the section 3(a)(11) exception has been the focus of litigation. In *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), the Third Court of Appeals recently held that §3(a)(11) "exempts those documents, and only those documents, normally privileged in the civil discovery context." *Gilbreath* at 413. The court has since denied a motion for rehearing this case.

We are currently reviewing the status of the section 3(a)(11) exception in light of the *Gilbreath* decision. In the meantime, we are returning your request to you and asking that you once again review the information and your initial decision to seek closure of this information. We remind you that it is within the discretion of governmental bodies to release information that may be covered by section 3(a)(11). If,

as a result of your review, you still desire to seek closure of the information, you must re-submit your request and the documents at issue, along with your arguments for withholding the information pursuant to section 3(a)(11). You must submit these materials within 15 days of the date of this letter. This office will then review your request in accordance with the *Gilbreath* decision. If you do not timely resubmit the request, we will presume that you have released this information.

If you have any questions regarding this matter, please contact our office .

Yours very truly,



Loretta R. DeHay

Assistant Attorney General
Opinion Committee

LRD/GCK/jmn

Ref.: ID# 20080

cc: Mr. James E. Porter
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