



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1993

Ms. Cathy Locke
City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842-0960

OR93-754

Dear Ms. Locke:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.¹). Your request was assigned ID# 22345.

The City of College Station ("the city") received an open records request for the following information:

photostats of the applications of each of the TEN APPLICANTS that were selected from the over 200 applications received. That is exactly what I request, including Letters of Transmittal from the Applicants, Exhibits, Educational Transcripts, Pictures, Biographical Resumes, Curricula Vitae etc and any addenda to original mailings.²

The requestor has stated to this office that he is not seeking the social security numbers on the applications. Thus, the city need not release the social security numbers of each applicant. You enclosed five applications and say that the city selected only five

¹The Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. This codification is a nonsubstantive revision. *Id.* § 47.

²The requestor also asked the city to complete a questionnaire. The Open Records Act does not require a governmental body to prepare answers to questions. *See* Open Records Decision No. 555 (1990).

applicants to interview. Correspondence to this office from the requestor's attorney indicates that the requestor seeks photostats of the applications submitted by the top ten applicants. We suggest you ask for clarification if you cannot understand what information is requested. See Open Records Decision No. 304 (1982).

You say that the city has released information about "the applicants' formal education, licenses and certificates, employment experience, professional awards and recognition and membership in professional organizations."³ You say that the requested records are protected from required public disclosure by the Open Records Act, sections 552.102, 552.103(a), and 552.111 of the Government Code (former sections 3(a)(2), 3(a)(3), and 3(a)(11) of V.T.C.S. article 6252-17a). It is not clear what information you seek to withhold, since you say the city has released most of the information on the applications and since you have not marked the documents.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have not made the requisite showing that litigation is reasonably anticipated for purposes of section 552.103(a). Therefore, the requested records may not be withheld pursuant to section 552.103(a).

Section 552.102 applies to information in personnel files that is protected from disclosure by the common-law right to privacy. *Industrial Foundation of the S. v. Texas. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). You have not shown how section 552.102 applies to any of the information on the applications.

Section 552.111 excepts internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of a governmental body. Open Records Decision No. 615 (1993). This exception does not encompass information relating to personnel matters. *Id.* You may not withhold any part of the application pursuant to section 552.111. In summary, you may not withhold the applications under any exception to required public disclosure in the Open Records Act.

You also ask for guidance in regard to the release of public information in a situation in which a requestor has an outstanding debt to the city for charges for copies of public records. A governmental body may withhold information only if it is within one

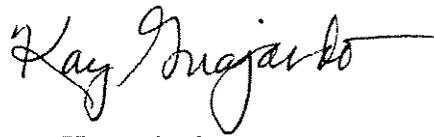
³The Open Records Act requires a governmental body to release to a requestor a copy of the actual requested records, with any confidential or nondisclosable information excised. Open Records Decision No. 606 (1992). Thus, unless the requestor agrees otherwise, the city may not provide the requestor with a newly generated document on which only the disclosable information has been consolidated and retyped.

of the exceptions to required public disclosure in the Open Records Act. *See* Gov't Code ch. 552, Subch. C. The Open Records Act does not contain an exception for information requested by a requestor who owes the city for charges incurred in gaining access to public information.

Section 552.261 of the Government Code contains provisions for determining the costs a government body may charge for copies of public information. Thus, while the Open Records Act permits the city to charge for copies of public information, you may not condition the release of public information upon the payment of a prior debt by the requestor. However, you may require payment for charges for copies of the information at issue before you release it.

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 contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 22345

Enclosures: Submitted documents

cc: Mr. W.P. Strube, Jr.
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(w/o enclosures)