Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1994

Ms. Barbara M. Elliott
Assistant City Attorney
Legal Department
P.O. Box 779
Galveston, Texas 77553-0779

OR94-413

Dear Ms. Elliott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 27123.

The City of Galveston (the "city") has received a request for information relating to its compliance with the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* The request takes the form of the following questions:

> 1. what streets, if any, in the city of Galveston, have been resurfaced since January 26, 1992;
>
> 2. if all pedestrian walks crossing curbs were made readily accessible to and usable by disabled persons for all streets resurfaced since January 26, 1992;
>
> 3. if there are any streets scheduled to be resurfaced at this time or in the near future which do not include plans to make all pedestrian walks along the way readily accessible to and usable by disabled persons at the same time the street is resurfaced; and
>
> 4. if the city of Galveston has completed its ADA self evaluation and transition plan. If so, please provide me with a copy of each. . . .

You advise us that the city will release its self-evaluation and transition plan. You object, however, to preparing answers to the questions posed in items 1, 2, and 3, above, claiming that doing so would involve the city in research not required under the Open Records Act. You informed the requestor that she will be advised "if the questions can be answered by staff or if the requestor will need to review the city's files to locate the

information." You do not assert any of the exceptions to required public disclosure enumerated in subchapter C of the Open Records Act.[1] Rather, you claim that the city is not required to respond to factual questions or to conduct research in response to a request for information.

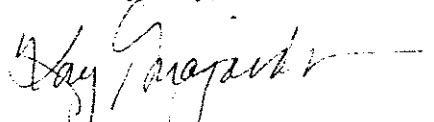
Generally, the Open Records Act applies only to information in existence and does not require a governmental body to prepare new information or to prepare information in a form demanded by the requestor. *See* Open Records Decision No. 572 (1990) at 1. Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

> We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

In response to the request at issue here, you must make a good-faith effort to relate the request to information in the city's possession and must help the requestor to clarify her request by advising her of the types of information available. You seem willing to do this. Beyond these requirements, however, the city need not generate new information or answer factual questions to comply with the request.

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 this office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

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[1]We note that since the city has raised no exceptions to the release of the requested information within ten days of receiving the request for information, it has waived the Open Records Act's discretionary exceptions to required disclosure and the information is presumed public. *See* Gov't Code §§ 552.301(a), 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

KHG/GCK/rho

Ref.: ID# 27123

cc: Ms. Helen Malveaux
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