



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1998

Ms. Mary Jane Ray
Paralegal
City of Austin
Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR98-1096

Dear Ms. Ray:

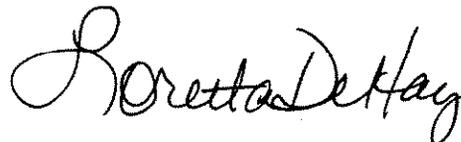
You ask this office to partially reconsider our ruling in Open Records Letter No. 98-0304 (1998). Your request for reconsideration was assigned ID# 115706.

The City of Austin (the "city") received two requests for information related to an investigation conducted by the city's Employee Relations Division concerning the Occupational Health and Safety Division, as well as other information. In Open Records Letter No. 98-0304 (1998), this office concluded in part that the city could not withhold the requested information under section 552.103 because the city did not provide us with sufficient evidence to determine that the requested information related to anticipated or pending litigation. You re-urge your original arguments for withholding the information and also explain that a federal lawsuit was filed on November 20, 1997 regarding one of the Equal Employment Opportunity Commission ("EEOC") claims. You did not, however, notify this office that a lawsuit was filed against the city while the request for a ruling was pending in our office.

We have reviewed your original arguments for withholding the information under section 552.103. We believe that the city has not established that the information relates to the pending EEOC claims. With respect to your statement that a federal lawsuit has been filed regarding one of the claims, a governmental body is required to timely notify this office of any changed circumstances regarding its claims of anticipated litigation. *See* Open Records Decision No. 638 (1996). You did not timely notify our office of any change in circumstances regarding your claims of anticipated litigation. We, therefore, affirm Open Records Letter No. 98-0304 (1998).

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Deputy Chief
Open Records Division

LRD/rho

Ref.: ID# 115706

Enclosures: Marked documents

cc: Mr. Melvin Penson
6214 Thurgood Avenue
Austin, Texas 78721
(w/o enclosures)

Ms. Joyce Lagunas
505 Seminole Drive
Austin, Texas 78745
(w/o enclosures)