



October 20, 1999

Ms. Lisa Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78711-2548

OR99-2962

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128317.

The City of Corpus Christi (the "city") received a written request from a city employee for "the findings of the Sexual Harassment Complaint filed against me."<sup>1</sup> You have submitted to this office as responsive to the request the city Human Resources Department's report of the investigation into the allegations. You contend that the report, which contains the city's "findings," is excepted from required public disclosure pursuant to section 552.101 in conjunction with the common-law right of privacy.

In *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied), the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment. See *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), cert. denied, 430 U.S. 931 (1977) (common-law privacy protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to reasonable person, and is of no legitimate concern to the public). The investigatory files at issue in *Ellen* contained individual witness and victim statements, an affidavit given by the individual accused of the misconduct in response to the allegations, and the conclusions of the board of inquiry that conducted the investigation.

The court held that the names of witnesses and their detailed affidavits regarding allegations of sexual harassment was exactly the kind of information specifically excluded from

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<sup>1</sup>You inform us that, pursuant to a previous ruling from this office, the city has released to the requestor a copy of the allegations that were made against him. See Open Records Letter No. 99-1880 (1999).

disclosure under the privacy doctrine as described in *Industrial Foundation. Ellen*, 840 S.W.2d at 525. However, the court ordered the release of the affidavit of the person under investigation. *Id.* The *Ellen* court also ordered the disclosure of the summary of the investigation with the identities of the victims and witnesses deleted from the documents, noting that the public interest in the matter was sufficiently served by disclosure of such documents and that in that particular instance “the public [did] not possess a legitimate interest in the identities of the individual witnesses, nor the details of their personal statements.” *Id.*

After reviewing the city’s report of the investigation, we conclude that in this instance the sections entitled “Discussion/Findings” and “Recommendations” found on pages 20 through 24 constitute an adequate summary of the investigation and subsequent action taken. In accordance with *Ellen*, the city must release these sections along with the requestor’s statements found on pages 12 through 16 of the report, but only after the city has redacted the names of the witnesses and the victim who were interviewed during the course of the investigation. The remaining information contained in the report must be withheld pursuant to common-law privacy pursuant to *Ellen*.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/RWP/nc

Ref.: ID# 128317

Encl. Submitted documents

cc: Mr. Todd White  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-3360  
(w/o enclosures)