OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

February 16, 2000

Mr. Hugh W. Davis, Jr.
Assistant City Attorney
City of Fort Worth
1000 Thorockmorton Street
Fort Worth, Texas 76102-6311

OR2000-0552

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133184.

The City of Fort Worth (the "city") received a request for an investigative file of the Fort Worth Human Relations Commission (the "HRC") relating to a charge of employment discrimination. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 21.304 of the Labor Code.

We note at the outset that the city failed to submit its request for the decision of this office within ten business days of receiving the written request for information as required by section 552.301(b) of the Government Code. Pursuant to section 552.302, if a governmental body fails to make the required submissions in accordance with section 552.301, the requested information is presumed public and must be released unless there is a compelling reason for withholding it. That information is confidential by law, as you contend here, provides a compelling reason for withholding information pursuant to section 552.302. *See, e.g.*, Open Records Decision No. 150 (1977). Accordingly, we will consider your claimed exception to disclosure.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Section 21.304 of the Labor Code prohibits public disclosure of "information obtained by the commission under section 21.204 except as necessary to the conduct of a proceeding under this chapter." Section 21.204 provides for the investigation of complaints by a human rights commission. You advise that the HRC is a local commission authorized by sections 21.152 et seq. of the Labor Code to investigate such complaints. You also advise that release of the requested information here is not necessary to the conduct of a proceeding under chapter 21. Based on your representations, we conclude that you must withhold the requested information pursuant to section 21.304 of the Labor Code in conjunction with section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 133184

Encl. Submitted documents

cc: Mr. Peter F. Bagley
Blumberg & Associates
1119 West Randol Mill Road, Suite 101
Arlington, Texas 76012
(w/o enclosures)