



January 16, 2001

Ms. Guadalupe Cuellar
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR2001-0149

Dear Ms. Cuellar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143481.

The City of El Paso (the "city") received a request for copies of EEOC dispositions. You state that you have provided most of the dispositions to the requestor. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You assert that the requested information is excepted from disclosure under section 552.103 of the Government Code. Section 552.103(a) provides as follows:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

However, if the opposing party in the litigation has seen or had access to any of the information, there is no section 552.103(a) interest in withholding that information from the requestor. Open Records Decision Nos. 349 (1982), 320 (1982). In this instance, the EEOC dismissal and notice of rights letters have been sent to the potential opposing parties. Therefore, the city has no litigation interest in withholding the EEOC letters and, therefore, may not withhold the EEOC letters under section 552.103 of the Government Code.

However, we note that the submitted information contains the home addresses of current or former city employees. Section 552.117(1) excepts from disclosure information that relates to the home addresses, home telephone numbers, and social security numbers of current or former employees of a governmental body who request that this information remain confidential under section 552.024. Thus, if the employees elected to keep their home addresses confidential prior to the city's receipt of this request, you must withhold the home address under section 552.117(1). If the employees are peace officers as defined by article 2.12 of the Code of Criminal Procedure, you must withhold the home addresses pursuant to section 552.117(2) of the Government Code regardless of whether the officer complied with section 552.024.

In conclusion, you must withhold the home addresses if excepted under section 552.117 of the Government Code, as provided above, but you must release the remaining information.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

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,



Jennifer H. Bialek
Assistant Attorney General
Open Records Division

JHB/er

Ref: ID# 143481

Encl: Submitted documents