



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

March 7, 2003

Mr. Bill Ainsworth
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2003-1499

Dear Mr. Ainsworth:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 177591.

The City of Corpus Christi (the "city") received a request for all documents in the Corpus Christi Human Relations Commission's (the "CCHRC") file regarding a specified individual. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Title VII states in relevant part:

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the [Equal Employment Opportunity] Commission [(the "EEOC")], alleging that an employer . . . has engaged in an unlawful employment practice, the [EEOC] shall serve a notice of the charge . . . and shall make an investigation thereof. . . . Charges shall not be made public by the [EEOC].

42 U.S.C. § 2000e-5(b). Furthermore, title VII allows the EEOC to utilize state and local agencies in addressing title VII charges. *See* 42 U.S.C. § 2000e-4(g).

In this instance, you explain that the CCHRC has entered into a work sharing agreement with the EEOC to process title VII and other charges of employment discrimination filed by area residents. You state that, as part of the work sharing agreement, the CCHRC has promised

to abide by the confidentiality provisions of title VII, as they are interpreted by the EEOC. We believe that the federal nondisclosure provision applies to EEOC agents or employees who enforce title VII. See 42 U.S.C. 2000e-5(b); see also *McMillan v. Computer Translations Systems & Support*, 66 S.W.3d 477, 481 (Tex. App.—Dallas 2001, no pet.) (under principles of agency and contract law, fact that principal is bound can serve to bind agent as well); Open Records Decision Nos. 245 (1980), 155 (1977), 59 (1974). Thus, based on your representations and our review of the submitted information, we find that, as an EEOC agent enforcing title VII, the CCHRC may only release the submitted information in accordance with title VII. As we are able to make this determination, we need not address your remaining argument.

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 Dep't of Pub. 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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/lmt

Ref: ID# 177591

Enc: Submitted documents

c: Ms. Colleen McHugh
Bracewell & Patterson, L.L.P.
2000 One Shoreline Plaza, South Tower
800 North Shoreline Blvd.
Corpus Christi, Texas 78401-3700
(w/o enclosures)