



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1997

Mr. Norbert J. Hart
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR97-0664

Dear Mr. Hart:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 104777.

The City of Corpus Christi (the "city") received an open records request for certain records that you contend may be withheld from the public pursuant to the Texas Open Records Act, section 552.103(a) of the Government Code. Specifically, you seek to withhold all employment applications received by the city with regard to five positions within the city, as well as the city's evaluations of the respective applicants.¹

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. You contend that the requested information is excepted from required public disclosure under section 552.103 because the requestor

represents [a city employee] in the filing of a grievance against the Director of Aviation and two of the persons named in his request for information He also represents [another city employee], a current Aviation Department employee, who has filed an EEO case, which involves the Operations and Maintenance Department Coordinator position, and which is the subject of one of the positions contained in his request. Further, a second active EEO case has been filed by [a named individual] regarding the Operations Superintendent position and the Chief of Fire Operations position which are again the subject of [the] request. [The requestor] also represents [another city employee], who

¹The requestor has qualified his request by stating that he specifically does not seek the names, addresses, telephone numbers, social security numbers or "any other identifying information on the applicants." For purposes of this ruling, we assume that the excluded information does not come within the ambit of the request.

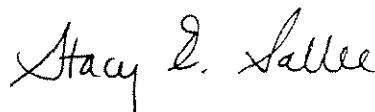
believes he should have been selected as the Senior Mechanic Foreman . . . and again the subject of the request.

It is well established that the filing of an EEOC complaint constitutes evidence that the likelihood of litigation against a governmental body is more than mere conjecture. *See* Open Records Decision No. 386 (1983). In this instance, however, you have not made the requisite showing that the requested information "relates" to the reasonably anticipated litigation: you have not explained to this office the bases of the EEOC complaints or how the records at issue relate to those complaints. Further, you have not demonstrated how any of the other requested records related to pending or reasonably anticipated litigation. We therefore conclude that the city may not withhold any of the requested records pursuant to section 552.103(a).

You also contend that the requested records are made confidential under federal law, 42 U.S.C. § 2000e. Although employees of the United States Equal Employment Opportunity Commission are prohibited from releasing any information pertaining to a discrimination complaint unless a complainant files a lawsuit to remedy the discriminatory practice, *see* 42 U.S.C. § 2000e-8(e), this prohibition does not extend to an employer's disclosure of information relating to a claim of employment discrimination. Open Records Decision No. 155 (1977) at 2. Consequently, the requested records held by the city are not confidential under federal law. The city therefore must release the requested information in its entirety.

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.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/RWP/alg

Ref.: ID# 104777

Enclosures: Submitted documents

cc: Mr. M. Orlando Narvaez
4329 Kostoryz
Corpus Christi, Texas 78415
(w/o enclosures)