

18 January 2010

Sent via fax to: 512-481-1992

Office of the Attorney General of Texas  
Open Records Enforcement Division  
P.O. Box 12548  
Austin, TX 78711-2548

Dear Sir/Madame:

Re: Request for Ruling on Open Records request from Robert Bastien in letters to your office dated 06 January 2010 and 12 January 2010 seeking to withhold "The Report of FMCS visit to assist the Galveston Housing Authority prepared for the GHA by federal mediators Steve Fischer and Jan Sunoo".

The Galveston Open Government Project is a newly-formed government watchdog group that seeks to provide the desperately-needed oversight to monitor our City government. Sometime later this year, we will gain our 501c3 status, and we hope to get grants to pay for a staff, and to hire lawyers, when necessary.

Therefore, unlike the GHA, we do not have the funds to hire a lawyer like Mr. Bastien to defend the Open Record Requests that our volunteer group must have to even attempt to provide the oversight that our City Council fails to supply with regards to the Galveston Housing Authority. However, the arguments in his letter of 06 January have such little merit that we think that we can easily refute them ourselves.

Items a-d + g on Page 3 argue that GHA could easily be perceived as:

- a) violating an agreement with Lone Star Legal Aid
- b) delaying the rebuilding of PHU's because of the race of the tenants
- c) unlawfully re-segregating their Black tenants
- d) ignoring the need to create a countywide housing authority required by the latest court rulings, and
- g) unlawfully concentrating their low-income residents in high poverty areas.

Mr. Bastien's argument is that the behavior listed above is sufficient reason for one or more parties to sue the GHA. This is absolutely true! There are many very valid reasons why someone may want to sue the GHA. However, rather than modify their behavior, they ask the Attorney General to assist them in withholding vital information from public-interest groups, because their actions have created potential liability for themselves.

He also lists all of the parties that MIGHT sue the GHA, but at the present time, he does not identify anyone who is actually doing so. The GOP has NOT retained counsel, and is not in the process of suing the GHA as is alleged in this letter. The Texas Open Records Act can have no real force and effect if government entities that are behaving badly can simply use their bad behavior as an excuse to stonewall efforts at oversight by crying "pending litigation". We hope that your office will see through this pretense and assist us in our efforts to create open government in the City of Galveston.

Mr. Bastien's letter of 12 January adds nothing to the argument other than to cite exemptions to the Texas Open Records Act due to pending litigation. Mr. Bastien presents no actual evidence of pending litigation, and is using this as an excuse not to release information that is simply potentially embarrassing to the GHA staff and Board. This kind of stonewalling makes it more rather than less likely that the GHA will eventually be sued, because interested parties may see it as the only way to gain access to the information being withheld, and to resolve issues that are trapped behind a wall of secrecy. If your office will help us to

create open government in the City of Galveston, by strictly enforcing the Open Records Act, the threat of litigation should actually decline. However, if government entities are allowed to withhold information by merely citing exemptions to the rules, what hope do we have? When you get past all of Mr. Bastien's claims of exemptions the simple truth is that there is information in the requested report that the GHA does not want the citizens of Galveston to see. There is no better reason for the Attorney General to order them to disclose it!

Thank you for your assistance.

Sincerely,

David Stanowski, President  
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