

Dallas Public Fraud Prevention Services

Anonymous Hotline Reporting

POB 455
Addison, TX 75001-0455

www.dpfps.org

November 17, 2003

Mr. Teodoro J. Benavides
Dallas City Manager
1500 Marilla Street, Room 4EN
Dallas, Texas 75201-6390

**RE: Texas Public Information Act – Open Records Request
Dallas Police & Fire Pension System
ID # 0301-022**

Dear Mr. Benavides:

On April 17, 2003, the Dallas Police and Fire Pension System filed suit against the Texas Attorney General in the 353rd Judicial District Court, Cause No. GN301225 ([Exhibit "A"](#)), to block the release of billings from the law firm of Lawson Fields McCue Lee & Campbell, P.C. ([Exhibit "B"](#)), ruled subject to public disclosure by the Office of the Texas Attorney General.

Pursuant to the Texas Public information Act (Texas Open Records Act), Chapter 552, Texas Government Code, please provide the following information regarding the Dallas Police & Fire Pension System, its employees, and its Board of Trustees (collectively, the "Pension System"):

1. Identify all legal documents filed by or on behalf of the Pension System in the above noted cause of action. Please include the date-of-filing and a brief description of each document.

Please note that we are requesting that your office compile information responsive to this Open Records Request. Should documents responsive to this request not be available, please note that there is also considerable knowledge within the Pension System to include its Chairman who, according to the Pension System's website, has served the Board of Trustees continuously since 1983.

Please advise should you have comments or require additional information. Thank you.

Respectfully,

Columbus A. Alexander, III, CPA
Certified Fraud Examiner
www.dpfps.org

cc: Honorable Mayor Laura Miller
Shirley A. Acy, City Secretary

No. GD301225

DALLAS POLICE AND FIRE
PENSION SYSTEM,

PLAINTIFF,

v.

THE HONORABLE GREG ABBOTT,
ATTORNEY GENERAL
FOR THE STATE OF TEXAS,

DEFENDANT.

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

353rd JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION FOR DECLARATORY RELIEF

Plaintiff, Dallas Police and Fire Pension System (the "System or Plaintiff") files this Original Petition against Greg Abbott, Attorney General of the State of Texas (the "Attorney General"). This is a level one case.

I.
PRELIMINARY STATEMENT

The System seeks relief from a Texas Open Records Act (the "Act") ruling issued by the Attorney General made pursuant to the Texas Open Records Act in OR2003-2325 that the System is required to turnover certain confidential and attorney-client privileged records to a third party.

II.
PARTIES

1. Plaintiff Dallas Police and Fire Pension System is a governmental entity created pursuant to Article 6243a-1 of the Texas Statutes and is based in Dallas, Texas.

FILED
2003 APR 17 AM 9:23



**LAWSON
FIELDS
McCUE &
CAMPBELL, P.C.**
ATTORNEYS AT LAW

AREAS OF PRACTICE | ATTORNEYS | CONTACT US | SEARCH
OVERVIEW | RECENT NEWS | LOCATION | HOME

MEET

ATTORNEYS



ERIC CAMPBELL • ERIC G. CALHOUN • SUSAN L. TRAVIS
DAVID McCUE • ROBBYN WYSOCKI • GARY LAWSON • GUST LILLIS

We'd like you to get to know our attorneys better. Simply click on their names or photos, and take a few moments to learn more about their vital roles in the LFMC firm.

LAWSON, FIELDS, McCUE & CAMPBELL, P.C.
Attorneys at Law

14135 Midway Road Suite 250 Addison, Texas 75001 Phone: 972-490-0808 Fax: 972-490-9545

Copyright © 2001-2002



Produced by NetSuccess.com | Disclaimer



WELCOME



Thank you for visiting LFMC online.

We hope that the information on our site makes it easy for you to get to know us better, as well as the areas of law we practice. We've also provided some news about developments in the law to keep you up to date.

Our people are our practice. The attorneys in our firm are dedicated to providing the highest level of client service, no matter how big or small the project or client. They come from a wide range of legal and industry backgrounds. As you read on, please click any of the links to find out more.

Our site includes a brief description of LFMC, our firm's creed and our mission, our diverse and yet often related areas of practice, a way to communicate with our attorneys, and articles we have published or speeches our lawyers have given (or are about to give) that may be of interest to you.

We strongly suggest that you generally not use e-mail to send any confidential communications. There are risks that e-mail may be misdirected or intercepted, which could be very detrimental to your interests. For further information about communicating with anyone at LFMC please review our Disclaimer.

We hope you enjoy your visit to our site, and we welcome any feedback you may care to share.

All attorneys licensed by the Supreme Court of Texas. Unless otherwise noted in website — Not Certified by the Texas Board of Legal Specialization.



Dallas Public Fraud Prevention Services

Anonymous Hotline Reporting

POB 455
Addison, TX 75001-0455

www.dpfps.org

November 17, 2003

Mr. Teodoro J. Benavides
Dallas City Manager
1500 Marilla Street, Room 4EN
Dallas, Texas 75201-6390

**RE: Texas Public Information Act – Open Records Request
Dallas Police & Fire Pension System
ID # 0301-022**

**SECOND REQUEST
12/02/03**

Dear Mr. Benavides:

On April 17, 2003, the Dallas Police and Fire Pension System filed suit against the Texas Attorney General in the 353rd Judicial District Court, Cause No. GN301225 ([Exhibit "A"](#)), to block the release of billings from the law firm of Lawson Fields McCue Lee & Campbell, P.C. ([Exhibit "B"](#)), ruled subject to public disclosure by the Office of the Texas Attorney General.

Pursuant to the Texas Public information Act (Texas Open Records Act), Chapter 552, Texas Government Code, please provide the following information regarding the Dallas Police & Fire Pension System, its employees, and its Board of Trustees (collectively, the "Pension System"):

1. Identify all legal documents filed by or on behalf of the Pension System in the above noted cause of action. Please include the date-of-filing and a brief description of each document.

Please note that we are requesting that your office compile information responsive to this Open Records Request. Should documents responsive to this request not be available, please note that there is also considerable knowledge within the Pension System to include its Chairman who, according to the Pension System's website, has served the Board of Trustees continuously since 1983.

Please advise should you have comments or require additional information. Thank you.

Respectfully,

Columbus A. Alexander, III, CPA
Certified Fraud Examiner
www.dpfps.org

cc: Honorable Mayor Laura Miller
Shirley A. Acy, City Secretary

Dallas Public Fraud Prevention Services
Anonymous Hotline Reporting

POB 455
Addison, TX 75001-0455
www.dpfps.org

December 5, 2003

Mr. Gary B. Lawson
Lawson Fields McCue & Campbell, P.C.
14135 Midway Road, Suite 250
Addison, TX 75001

**RE: Texas Public Information Act – Open Records Request
Dallas Police & Fire Pension System
ID # 0301-022**

Dear Mr. Lawson:

On November 17, 2003, we issued a request for information regarding the Dallas Police & Fire Pension System and its now pending lawsuit against the Texas Attorney General. In anticipation of inspection or a request for copies, we requested the identification of all legal documents filed by the Pension System in the aforementioned lawsuit ([Exhibit "A"](#)).

We are now in receipt of your letter of December 1, 2003, that not only *fails to provide* the information requested but states among other things, that your client is *not obligated* "to create documents that do not exist" nor is it required "to interrogate officers and employees to obtain information that it has not documented" ([Exhibit "B"](#)).

In our letter of November 17, 2003, we noted that the Pension System's Chairman has served the Board of Trustees continuously since 1983. Please note that we were simply identifying a resource from which information could possibly be obtained should documents not exist as indicated in your letter, and that any thoughts of "interrogating" Pension System employees or officers are yours, not ours.

In addition, should the information requested require compilation or human intervention, Chapter 552, § 552.231 of the Government code states that the governmental body shall provide the requestor with a written statement noting that the request for public information will require programming or manipulation of data, and that the information could be made available at a cost that covers the programming and manipulation of data ([Exhibit "C"](#)).

Finally, Chapter 552, § 552.001 states that "...it is the *policy of this state* that each person is entitled, unless otherwise expressly provided by law, at all times to *complete information* about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know" ([Exhibit "D"](#))

Accordingly, the courtesy of the information requested in our letter of November 17, 2003, would be appreciated. Thank you.

Gary B. Lawson
December 5, 2003

Page 2

Respectfully,

Columbus A. Alexander, III, CPA
Certified Fraud Examiner
www.dpfps.org

cc: Honorable Mayor Laura Miller
Dallas City Council
Teodoro J. Benavides, City Manager
Shirley A. Acy, City Secretary

Dallas Public Fraud Prevention Services
Anonymous Hotline Reporting

POB 455
Addison, TX 75001-0455
www.dpfps.org

November 17, 2003

Mr. Teodoro J. Benavides
Dallas City Manager
1500 Marilla Street, Room 4EN
Dallas, Texas 75201-6390

RE: Texas Public Information Act – Open Records Request
Dallas Police & Fire Pension System
ID # 0301-022

Dear Mr. Benavides:

On April 17, 2002, the Dallas Police and Fire Pension System filed suit against the Texas Attorney General in the 353rd Judicial District Court, Cause No. GN301225 ([Exhibit "A"](#)), to block the release of billings from the law firm of Lawson Fields & Calhoun, P.C. ([Exhibit "B"](#)), ruled subject to public disclosure by the Office of the Texas Attorney General.

Pursuant to the Texas Public information Act (Texas Open Records Act), Chapter 552, Texas Government Code, please provide the following information regarding the Dallas Police & Fire Pension System, its employees, and its Board of Trustees (collectively, the "Pension System"):

1. Identify all legal documents filed by or on behalf of the Pension System in the above noted cause of action. Please include the date-of-filing and a brief description of each document.

Please note that we are requesting that your office compile information responsive to this Open Records Request. Should documents responsive to this request not be available, please note that there is also considerable knowledge within the Pension System to include its Chairman who, according to the Pension System's website, has served the Board of Trustees continuously since 1983.

Please advise should you have comments or require additional information. Thank you.

Respectfully,

Columbus A. Alexander, III, CPA
Certified Fraud Examiner
www.dpfps.org

cc: Honorable Mayor Laura Miller
Shirley A. Acy, City Secretary

LAWSON
FIELDS
McCUE &
CAMPBELL, P.C.

14135 Midway Road, Suite 250 Addison, TX 75001 Tel 972-490-0808 Fax 972-490-9545

Gary B. Lawson

December 1, 2003

Fraud Investigations
Dallas Public Fraud Prevention Services
P. O. Box 455
Addison, TX 75001-0455

Re: Texas Public Information Act – Open Records Request
Dallas Police & Fire Pension System
ID # 0301-022

Dear Sir or Madam:

This is in response to your request for information dated November 17, 2003, which was directed to Mr. Teodoro J. Benavides, Dallas City Manager. You indicated that your request is made pursuant to the Texas Open Records Act, Chapter 552, of the Texas Government Code.

Your request which was received by the Dallas Police and Fire Pension System on November 24, 2003, asks that Mr. Benavides' office identify all legal documents filed by or on behalf of the Dallas Police & Fire Pension System in a suit against the Attorney General in the 353rd Judicial District Court, Cause No. GN 301225. You ask further that Mr. Benavides' office include the date of filing and a brief description of each document. You further note that if documents responsive to this request are not available, there is considerable knowledge within the Pension System to include its Chairman. You did not ask for any existing documents.

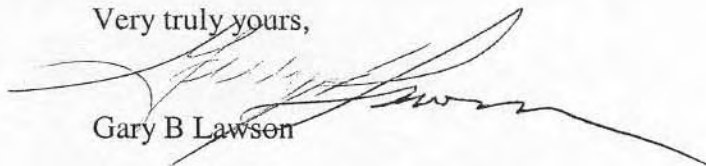
As you already know, the documents that exist with respect to this matter would be within the control of the Pension System and not in Mr. Benavides' Office. Chapter 552 of the Government Code requires certain entities to make available public documents that are not protected from disclosure by confidentiality, exception or other law. However, that Chapter does not require an entity to create documents that do not exist (See Op. Atty. Gen. 1994, No ORD-624, and Op. Atty. Gen. 1994, No ORD-625), or to interrogate its officers and employees to obtain information that it has not documented.

Copies of the documents that have been filed in this case are Court records that may be obtained from the Court described above. You may also view or pick up copies of the legal documents at the law office of Lawson, Fields, McCue & Campbell, P.C., at 14135 Midway Road, Suite 250, Addison, TX 75001. If you wish to view or pick up copies of these documents, please call Gary B. Lawson, Esq., at (972) 490-0808 to arrange a mutually suitable time for the

Fraud Investigations
Dallas Public Fraud Prevention Services
December 1, 2003
Page 2

pick up. Finally, if you wish to receive copies of these documents by mail, you may do so by contacting Mr. Lawson. A nominal charge for copying (payable to the Pension System) may be required.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gary B Lawson", is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gary B Lawson

GBL/ms

§ 552.231. Responding to Requests for Information That Require Programming or Manipulation of Data

(a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines: (1) that responding to a request for public information will require programming or manipulation of data; and (2) that: (A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or (B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

(b) The written statement must include: (1) a statement that the information is not available in the requested form; (2) a description of the form in which the information is available; (3) a description of any contract or services that would be required to provide the information in the requested form; (4) a statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the General Services Commission under Section 552.262; and (5) a statement of the anticipated time required to provide the information in the requested form.

(c) The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional 10 days to provide the statement if the governmental body gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.

(d) On providing the written statement to the requestor as required by this section, the governmental body does not have any further obligation to provide the information in the requested form or in the form in which it is available until the requestor states in writing to the governmental body that the requestor: (1) wants the governmental body to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the governmental body agree; or (2) wants the information in the form in which it is available.

(e) The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under this section in a readily accessible location.

Added by Acts 1995, 74th Leg., ch. 1035, § 15, eff. Sept. 1, 1995.

§ 552.001. Policy; Construction

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.