

From: Ken Martin <ken@theaustinbulldog.org>
Subject: **Open Records Request No. 10**
Date: May 16, 2010 7:13:04 PM CDT
To: khutchinson@georgetowntx.org
Cc: Mark Sokolow <msokolow@georgetowntx.org>
▶ 1 Attachment, 3.6 KB

Dear Keith Hutchinson,

This is a request for the City of Georgetown to produce records under the Texas Public Information Act.

Please promptly acknowledge receipt of this request to my e-mail address at ken@theaustinbulldog.org and produce the following records:

The evaluations of the performance of Mark Sokolow as city attorney for Georgetown that were delivered in writing by the mayor and members of the Georgetown City Council during executive sessions held on or about May 13, 2010, and on any other dates on which Mark Soklow may have received such written evaluations by the mayor and council members.

Please note that the Texas Public Information Act, Section 552.102, Section 1, states:

"Because there is a legitimate public interest in the activities of public employees in the workplace, information about public employees is commonly held not to be excepted from required public disclosure under this test. Therefore, although this exception is commonly referred to as the "personnel file" exception, in reality this provision excepts very little of the information commonly found in the personnel files of public employees. For example, information about public employees' job performance or the reasons for their dismissal, demotion, promotion, or resignation is not excepted from public disclosure." 374 (Emphasis added).

374: Open Records Decision Nos. 444 at 5-6 (1986), 405 at 2-3 (1983).

Please also note that Section 552.107.1, Information Within the Attorney-Client Privilege, offers no basis for withholding the written evaluations of Mark Sokolow's performance as the city attorney of Georgetown. That section states, in part, "The privilege will not apply if the attorney...was acting in a capacity 'other than that of providing or facilitating professional legal services to the client.'"

Clearly, in receiving written evaluations of his performance, City Attorney Sokolow was not providing or facilitating professional legal services to the mayor and council that might conceivably be exempted from disclosure under this provision.

He was being counseled--as any other city employee would be--about the mayor and council members' perceptions of the strengths and weaknesses of his performance as an employee of the City of Georgetown.

If clarification of this request is needed, please e-mail me at ken@theaustinbulldog.org to explain the clarification that is requested.

I look forward to your acknowledgement of receiving this e-mail and obtaining these records.

Ken Martin
Founder, Editor & Publisher
The Austin Bulldog



Investigative journalism in the public interest
An initiative of the Austin Investigative Reporting Project, a 501(c)(3) nonprofit

Phone O: 512-474-1022

e-mail ken@theaustinbulldog.org

web www.theaustinbulldog.org

<http://twitter.com/AustinBulldog>

<http://www.linkedin.com/myprofile>

P.O. Box 4400 Austin TX 78765

Organizer: [Austin Investigative Reporting Team](#) meetup group