



**THE ATTORNEY GENERAL  
OF TEXAS**

January 9, 1990

**JIM MATTON  
ATTORNEY GENERAL**

Honorable Frank Collazo  
Chairman  
Budget and Oversight Committee  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

LO-90-2

Dear Representative Collazo:

On behalf of a constituent you ask:

When does a recall petition that has been submitted to the City Secretary for certification or verification become public information for inspection by the person being recalled; either before or after certification or verification by the City Secretary?

Neither the Open Records Act nor the Election Code specifically addresses the issue you ask about. However, under the Open Records Act, article 6252-17a, V.T.C.S., all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. A recall petition filed with the custodian of records for a political subdivision does not fall within the protection of any of the act's exceptions and is therefore a public record. See, e.g., Attorney General Opinion MW-175 (1980) (nominating petitions for primary elections in the custody of political parties are available for public inspection under the Open Records Act); Open Records Decision No. 146 (1976) (information concerning city elections is available to the public under the Open Records Act). Once a recall petition is submitted to the city secretary, it becomes a public record, regardless of whether the city secretary has completed certification or verification of the document. Open Records Decision No. 407 (1984) (information in the possession of a governmental body that has not yet become part of a finalized investigative report may not be withheld simply because the report is not yet completed).

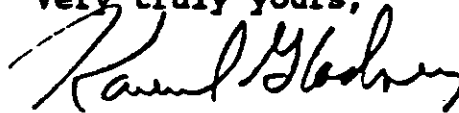
Of course, other provisions of the Open Records Act might limit public access to the information at issue. See V.T.C.S. art. 6252-17a, §§ 4 (pertaining to information in active use by the governmental body), 4A(c) (access to information may be interrupted if needed for official use), 13 (governmental body may promulgate reasonable rules pertaining to the inspection of public records). Additionally, section 1.012 of the Election Code states:

(a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

(b) For the purpose of safeguarding the election records or economizing the custodian's time, the custodian may adopt reasonable rules limiting public access.

It is beyond the scope of the opinion process to determine what constitutes a reasonable rule.

Very truly yours,



Karen C. Gladney  
Assistant Attorney General  
Opinion Committee

KCG/er

Ref.: ID-8346

APPROVED: RICK GILPIN, CHAIRMAN  
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