



Office of the Attorney General

State of Texas

February 23, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. Paul F. Wieneskie
Cribbs & McFarland
P.O. Box 13060
Arlington, Texas 76094-0060

OR98-0513

Dear Mr. Wieneskie:

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# 113554.

The City of North Richland Hills (the "city"), which you represent, received an open records request for a copy of the "statement of facts" from a particular court hearing. You do not contend that the requested information comes within any of the exceptions to disclosure listed in subchapter C of the Open Records Act. You contend, however, that the requested transcript is not subject to disclosure pursuant to section 552.027 of the Government Code because it is a "commercially available" document from the court reporter who prepared it.

Section 552.027 of the Government Code provides:

(a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information *in a commercial book or publication purchased or acquired by the governmental body for research purposes* if the book or publication is commercially available to the public.

(b) Although information *in a book or publication* may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information *in a book or publication* that is made part of, incorporated

into, or referred to in a rule or policy of a governmental body.
[Emphasis added.]

This section is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. The legislative history of this provision notes that section 552.002 should exclude from the definition of public information

books and other materials that are also available as research tools elsewhere to any member of the public. Thus, although *public library books* are available for public use, the library staff will not be required to do research or make copies of books for members of the public.

INTERIM REPORT TO THE 74TH LEGISLATURE OF THE HOUSE STATE AFFAIRS COMM., 74th Leg., R.S., SUBCOMMITTEE ON OPEN RECORDS REVISIONS 9 (1994) (emphasis added). Therefore, section 552.027 excludes commercially available research material from the definition of "public information."

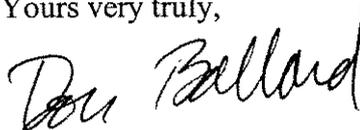
We do not believe that the requested information is "a commercial book or publication purchased or acquired by the [city] for research purposes." The information appears to have been utilized by the city in connection with the transaction of official business. *See id.* § 552.002(a)(2) (defining public information). And, although the requested document may be commercially available to the public, it is not apparent that the city purchased or acquired this record for research purposes in the same way that a telephone or library book would be. Accordingly, we do not believe that the requested record is that kind of information covered by section 552.027.

You also contend that if the city is required to release the requested information, the requestor should be required to pay half of the purchase price the city paid to obtain it. This office does not address cost questions arising from requests for public information under the Open Records Act. Section 552.261 of the Government Code provides that the cost of providing copies of public information "shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead." The Texas General Services Commission sets rules specifying the methods and procedures for determining such costs. Gov't Code § 552.262. Consequently, you should contact the Texas General Services Commission if you have questions concerning the cost of providing copies of public information. We suggest that you contact the open records administrator at the General Services Commission at (512) 475-2497.

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,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive style with a large, prominent "D" and "B".

Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/ch

Ref.: ID# 113554

Enclosures: Submitted documents

cc: Mr. David Ainslie
6713 John Drive
Fort Worth, Texas 76118-6202
(w/o enclosures)