



June 23, 1999

Ms. Jennifer D. Soldano  
Associate General Counsel  
Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR99-1742

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126191.

The Department of Transportation (the "department") received requests for sign permit applications for various locations. You indicate that the requests relate to a judgment obtained against the requestor's company in cause number 1700716 in the 33<sup>rd</sup> Judicial District, Burnet County, and that the assistant attorney general representing the department is preparing to file a contempt motion for the company's failure to remove a sign in compliance with the judgment. You "posit that the continuance of these harassing requests would be more appropriately addressed by that court" and "ask that the information be withheld until that court makes a determination."

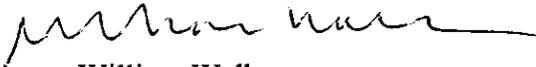
We do not understand you to raise any of the exceptions to disclosure set out in chapter 552 of the Government Code.<sup>1</sup> We have no basis for ruling that you may withhold the requested information. Should the department obtain a court order protecting the information, you must of course comply with such order. Otherwise, you must release the requested information. *See* Gov't Code §552.353 (affirmative defenses to prosecution of officer for public information for failure to release information include reliance on court order).

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<sup>1</sup>Although you allude to the possibility of further litigation in connection with the judgement you reference, you have not shown how the information requested here would relate to such litigation. Thus, even were we to construe your letter to this office as claiming section 552.103(a), the "litigation exception," with respect to the requested information, you have not made the requisite showings for withholding the information under that exception. *See* Open Records Decision Nos. 551 (1990), 638 (1996) (governmental body claiming litigation exception must show how information at issue relates to litigation).

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.

Sincerely,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/eaf

Ref.: ID# 126191

Encl. Submitted documents

cc: Ms. Tommye Potts  
Dura Adversting  
106 South West Street  
Burnet, Texas 78611  
(w/o enclosures)