



December 1, 1999

Mr. Darrell G-M Noga
Cooper & Scully
900 Jackson Street, Suite 100
Dallas, Texas 75202

OR-99-3456

Dear Mr. Noga:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 130080.

The City of Weslaco (the "city"), which you represent, received a written request for sixteen categories of information in connection with a civil dispute concerning the "Civic Center property." You have raised various exceptions to required public disclosure with regard to the requested records, including section 552.103 of the Government Code, the "litigation exception," and have submitted the following documents as being representative of the requested documents as a whole: one "Special Warranty Deed," one piece of correspondence between two attorneys, and two documents entitled "Commitment For Title Insurance," with attached schedules.

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow when it seeks a decision from the attorney general as to whether requested information falls within an exception to disclosure. Among other requirements, the governmental body must submit to this office "written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld," Gov't Code § 552.301(e)(1)(A), as well as "a copy of the specific information requested, or . . . representative samples of the information if a voluminous amount

of information was requested.” Gov’t Code § 552.301(e)(1)(D).¹ Additionally, the governmental body must “label that copy of the specific information or of the representative samples, to indicate which exceptions apply to which parts of the copy.” Gov’t Code § 552.301(e)(2). Otherwise, the requested information “is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.” Gov’t Code § 552.302.

This office finds it difficult, if not impossible, to believe that the four documents you submitted are representative of the sixteen categories of information being requested. Other than section 552.103, you have not provided this office with an explanation as to how the other exceptions you have raised apply to the requested information, nor have you marked the documents you submitted to us to indicate such. Finally, we conclude that you have not presented this office with compelling reasons for withholding the information at issue.

We additionally note that section 552.022(a) of the Government Code provides in pertinent part as follows:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information *and not excepted from required disclosure under this chapter unless they are expressly confidential under other law*:

....

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

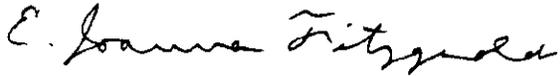
(4) the name of each official and the final record of voting on all proceedings in a governmental body;

....

¹We also note that the governmental body must submit “a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date.” Gov’t Code § 552.301(e)(1)(C).

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,

A handwritten signature in cursive script that reads "E. Joanna Fitzgerald".

E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF/RWP/nc

Ref.: ID# 130080

Encl. Submitted documents

cc: Mr. Gene Barron
3883 Turtle Creek, Suite 1712
Dallas, Texas 75219
(w/o enclosures)

(13) a policy statement or interpretation that has been adopted or issued by an agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public; [and]

....

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law. [Emphasis added.]

Many of the requested documents come within these descriptions of public documents, which may not be withheld from the public "unless they are expressly confidential under other law." You have not cited, nor is this office aware of, any statutory law that would make the requested information confidential. We therefore conclude that to the extent that the requested information may reasonably be considered to come within the ambit of the above cited categories of information, that information is deemed to be public and must be released to the requestor pursuant to section 552.022.

Finally, in his request for information, the requestor makes reference to a previous records request to the city that allegedly went unanswered.² This office cannot resolve factual disputes in the opinion process. However, if the city did in fact fail or refuse to release records in response to the alleged previous written request without first requesting a decision from this office, those records are now presumed to be public. *See* Gov't Code §§ 552.301, .302.

In summary, we conclude that the city failed to submit to this office 1) a representative sample of the requested records, 2) an explanation as to how the claimed exceptions apply to the requested documents, 3) marked copies of the documents to indicate which exception applies to particular information, and 4) compelling reasons for withholding the requested information. We further conclude that much of the requested information is specifically made public under section 552.022(a) of the Government Code and thus is not subject to the exceptions to required public disclosure. Accordingly, the city must release the requested information in its entirety.

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

²A review of our records do not indicate that the city requested a decision from this office in connection with the referenced prior request.