



February 16, 2000

Ms. Patricia Muniz-Chapa  
Public Information Coordinator  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-4523

OR2000-0555

Dear Ms. Muniz-Chapa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132077.

The University of Texas System (the "system") received a request for "all documents relating to the planning and construction of the John Connally Center for the Administration of Justice at the University of Texas School of Law." You state that you will release all of the responsive information except for social security numbers and documents that are subject to the attorney-client privilege. You assert that the information you have withheld are excepted from disclosure pursuant to sections 552.101, 552.107, and 552.111 of the Government Code. You have submitted documents reflecting communications between an attorney in the system's Office of General Counsel and system employees and a draft of the minutes of a meeting.

Pursuant to section 552.301(e)(2), a governmental body is required to submit to this office within fifteen business days of receiving an open records request a copy of the written request for information. The system received the request for information on November 19, 1999. You did not submit the request for information to this office until December 20, 1999, more than fifteen business days after receipt of the request for information. Thus, you have failed to comply with section 552.301(e)(2).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd.*

*of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). The applicability of section 552.101 of the Government Code is such a compelling reason.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the file are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 in conjunction with the federal provision. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the system pursuant to any provision of law, enacted on or after October 1, 1990.

You further claim that Rule of Civil Evidence 408 makes certain documents concerning settlement negotiations confidential. We note, however, that chapter 552 of the Government Code differs in purpose from statutes and procedural rules providing for discovery in judicial proceedings. Attorney General Opinion JM-1048 (1989); *see* Open Records Decision No. 575 (1990) (section 552.101 does not encompass discovery privileges); Gov't Code § 552.006 (chapter 552 does not authorize withholding public information or limit availability of public information to public except as expressly provided by chapter 552). The rule of civil evidence to which the system cites regulates discovery in court proceedings and not the availability of information under chapter 552 of the Government Code.

Accordingly, because the system failed to comply with section 552.301(e), and, with the exception of the social security numbers, no compelling reason exists to withhold the submitted information, the system must release the submitted information. Open Records Decision Nos. 630 (1994) (waiver of section 552.107), 473 (1987) (waiver of section 552.111).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

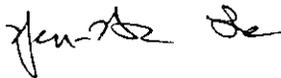
governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/ljp

Ref: ID# 132077

Encl. Submitted documents

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