



March 8, 2000

Ms. Robin Abbott
General Counsel
Department of Economic Development
Post Office Box 12728
Austin, Texas 78711-2728

OR2000-0939

Dear Ms. Abbott:

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# 133517.

The Texas Department of Economic Development (the "department") received a written request for all correspondence between the department and the governor's office. You contend that certain documents coming within the ambit of the request are excepted from required public disclosure pursuant to sections 552.101, 552.104, 552.107(1), 552.111, and 552.131 of the Government Code.

The department received the records request on January 5, 2000. You requested a decision from this office on January 25, 1999. Section 552.301(a) of the Government Code requires a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold unless there has been a previous determination that the requested information is excepted from required public disclosure. When a governmental body fails to comply with the requirements of section 552.301, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling reason to withhold the information to overcome this presumption. See Gov't Code § 552.302; *Hancock*, 797 S.W.2d at 381.

You have not shown compelling reasons for withholding any of the information at issue pursuant to sections 552.104, 552.107(1), 552.111, or 552.131. Furthermore, after reviewing the documents at issue, this office could identify no information that implicates third parties' privacy or proprietary interests under sections 552.101 or 552.131, respectively. Accordingly, we conclude that the department must release the requested information in its entirety.

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.

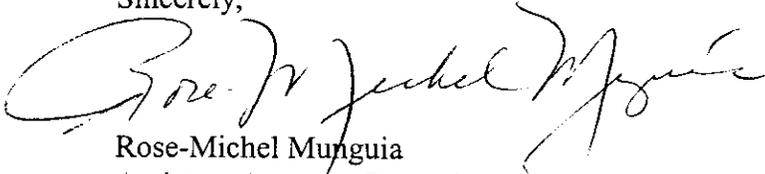
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge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

A handwritten signature in black ink, appearing to read "Rose-Michel Munguia". The signature is fluid and cursive, with a large initial "R" and "M".

Rose-Michel Munguia
Assistant Attorney General
Open Records Division

RMM/RWP/jc

Ref: ID# 133517

cc: Mr. Mike Lavigne
PBM 353
1827 Mesa Drive B-206
Austin, Texas 78759-8632
(w/o enclosures)