



March 23, 2000

Mr. Tony Resendez
Escamilla & Poneck, Inc.
1200 South Texas Building
603 Navarro Street
San Antonio, Texas 78205-1826

OR2000-1143

Dear Mr. Resendez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133645.

The Harlandale Independent School District (the "district"), which you represent, received a request for a copy of the statement made by the requestor "during the closed session of the regular board meeting on 8 November 1999." You state "the only information requested is

after the date of receiving the written request for information); *see also* Gov't Code § 552.302 (a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public, unless there is a compelling reason to withhold the information). Thus, you did not properly assert section 552.101. As explained below, we shall nevertheless raise section 552.101 on your behalf.

You also state that "a governmental body is not required to request a decision where reliance on previous determinations have been made regarding the information at issue." We emphasize that a governmental body may withhold information requested under the Public Information Act without seeking a ruling from this office only where this office has issued a previous determination as to the *precise* information at issue. *See* Gov't Code § 552.301(a).

The Public Information Act prohibits the release of confidential information. Gov't Code § 552.352. Because the release of confidential information constitutes a misdemeanor, the

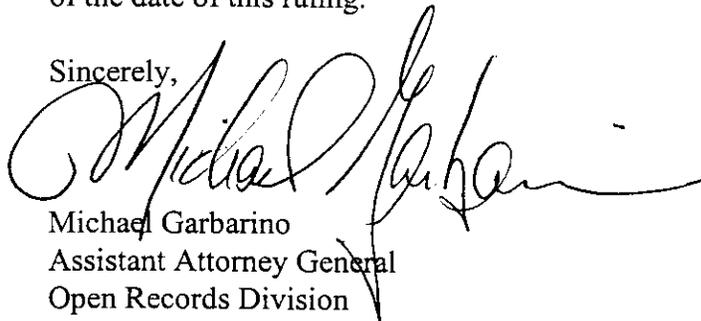
from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, 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,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/ch

Ref: ID# 133645

cc: Mr. Lawrence S. Watson, II
311 East Villaret Boulevard
San Antonio, Texas 78221