



October 17, 2000

Mr. Gary W. Smith
City Clerk
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR2000-4031

Dear Mr. Smith:

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# 140257.

The City of Baytown (the "city") received a request for information relating to the requestor's appeal of her termination. You claim that a small portion of the information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the "informer's privilege." We have considered the exception you claim and reviewed the submitted information.

We note, however, that the exact information at issue appears to have been addressed previously in Open Records Letter No. 2000-3465 (2000). Section 552.301 of the Government Code generally requires a governmental body that receives a written request for information that it wishes to withhold from required public disclosure and that it considers to be within one of the Public Information Act's exceptions to disclosure to ask the attorney general to determine that the information at issue is excepted from disclosure. *See Gov't Code* § 552.301(a). However, when a request involves the precise information at issue in a prior open records ruling, a governmental body need not request another decision from the attorney general under section 552.301(a), unless there has been a change in circumstances that would affect the applicability of the previous ruling. You do not inform us of any such change in circumstances. Therefore, as to the information submitted, the city must rely on the decision in Open Records Letter No. 00-3465, and release the information to the requestor as directed by that ruling.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,



Amanda Crawford
Assistant Attorney General
Open Records Division

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AEC/er

Ref: ID# 140257

Encl: Submitted documents

cc: Ms. Gloria Poynor
2504 Crosby Dayton Road
Crosby, Texas 77532
(w/o enclosures)