



March 1, 2001

Mr. Richard L. Muller, Jr.
Vinson & Elkins
2300 First City Tower
1001 Fannin Street
Houston, Texas 77002-6760

OR2001-0771

Dear Mr. Muller:

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# 144562.

The Fort Bend County Child Advocates Endowment, Inc. (the "endowment"), which you represent, received a request under the Public Information Act for various records pertaining to the organization and operation of the endowment. The endowment is a non-profit 501(c)(3) organization, and you inform us that the endowment has released some responsive records in accordance with the Non-Profit Corporations Act, V.T.C.S. art. 1396-2.23A(c). You contend, however, that the endowment is not a "governmental body" for purposes of the Public Information Act and therefore is not required to release any additional information to the requestor.

An entity that is supported in whole or in part by public funds or that spends public funds is a governmental body under the Act. *See* Government Code § 552.003(1)(A)(x) ("Governmental body" . . . means . . . the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds."). Public funds are "funds of the state or of a governmental subdivision of the state." *Id.* § 552.003(5). You represent, however, that the

Endowment is not a 'governmental entity' as defined by the Act. The Endowment is not supported in whole or part from public funds nor does it

spend public funds. The Endowment's sole source of support is from private fund raising activities.

You have submitted to this office for review the endowment's 1999 tax returns. These documents do not reflect income to the endowment from any governmental entity. Consequently, based on the information before us, we conclude that the endowment does not constitute a "governmental body" under section 552.003(1) of the Government Code. The endowment therefore need not release any additional information to the requestor pursuant to the Public Information Act.

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).

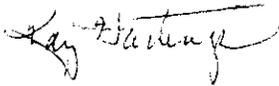
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Hadassah Schloss at 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/seg

Ref: ID# 144562

cc: Mr. Gary W. Gates, Jr.
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