



April 12, 2001

Mr. William H. Kuntz  
Executive Director  
Texas Department of Licensing and Regulation  
P.O. Box 12157  
Austin, Texas 78711

OR2001-1476

Dear Mr. Kuntz:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145966.

The Texas Department of Licensing and Regulation (the "department") received a request for a copy of the license application and any accompanying financial statements related to an entity regulated by the department. You state that you have provided the requestor with a copy of the license application. However, you claim that the financial statements are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 91.014 of the Labor Code provides in part:

(d) A document submitted to establish net worth must show the net worth on a date not earlier than nine months before the date on which the application is submitted. A document submitted to establish net worth must be prepared or certified by an independent certified public accountant. Information submitted to or maintained by the department is subject to Chapter 552, Government Code, other than information related to:

- (1) identification of client companies;
- (2) net worth;

(3) financial statements; or

(4) federal tax returns.

Labor Code, § 91.014(d). After reviewing the submitted information, we find that the documents concern financial statements which, pursuant to section 91.014(d), are not subject to the Public Information Act. Accordingly, the department need not release the financial statements in response to this request.

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).

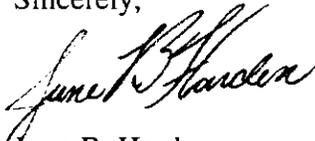
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RJB/seg

Ref: ID# 145966

Encl. Submitted documents

cc: Mr. Emil Lippe, Jr.  
Lippe & Associates  
2001 Bryan Street, Suite 1550  
Dallas, Texas 75201-3005  
(w/o enclosures)