



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 16, 2002

Mr. Ronald D. Stutes
Brown & Hofmeister
1717 Main Street, Suite 4300
Dallas, Texas 75201

OR2002-7166

Dear Mr. Stutes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 173766.

The Town of Flower Mound (the "town"), which you represent, received a request for information relating to (1) traffic citations at a particular intersection during a specified time interval; (2) the officers stationed at the intersection at that time; and (3) a citation issued to the requestor. You state that the town has released "first page information." See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 at 3-4 (1976). You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you raise and have reviewed the information you submitted. You indicate that the town has no other information that is responsive to this request. Chapter 552 of the Government Code does not require the town to release information that did not exist when it received this request or to create responsive information. See Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983). In this same regard, we note that one of the submitted documents did not exist when the city received this request. We have marked that document. As this request does not encompass the marked document, it need not be released.

Next, we must consider whether chapter 552 is applicable to the rest of the information that you submitted. Chapter 552 defines "public information" as consisting of "information collected, assembled, or maintained . . . by a governmental body" or "for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a). The definition of governmental body "does not include the judiciary." See *id.* § 552.003(1)(B). Thus, chapter 552 is not applicable to judicial records. See also *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ); Attorney

General Opinion DM-166 (1992); Open Records Decision No. 618 at 4 (1993). In this instance, the submitted information consists of traffic citations. According to the supporting documentation that you submitted, these traffic citations can only be obtained from the municipal court. Thus, the submitted information consists entirely of judicial records, and therefore the town is not required to release this information under chapter 552 of the Government Code. See Attorney General Opinion DM-166 at 1 (chapter 552 neither authorizes information held by judiciary to be withheld nor requires it to be disclosed). We note, however, that certain judicial records may be open to the public under sources of law other than chapter 552. See *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992) (documents filed with a court are generally considered to be public); Attorney General Opinion DM-166 at 3 (public has general right to inspect and copy judicial records); Open Records Decision No. 618 at 4 (Texas courts have recognized common-law right of public to inspect and copy records of judiciary). As chapter 552 is not applicable in this instance, we need not address your claims under sections 552.103 and 552.108.

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).

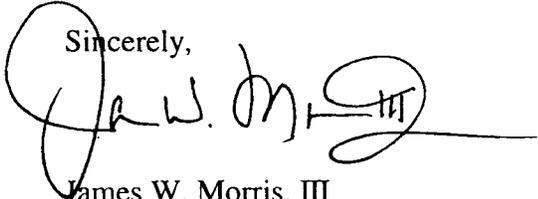
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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 "J.W. Morris, III", with a large, stylized flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 173766

Enc: Submitted documents

c: Mr. Allen Stumbo
165 North Old Orchard, Apt. 1722
Lewisville, Texas 75067
(w/o enclosures)