



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

February 12, 2003

Mr. Tim Karczewski  
Officer for Public Information or Designee  
San Angelo Independent School District  
P. O. Box 3685  
San Angelo, Texas 76902

OR2003-0935

Dear Mr. Karczewski:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 176537.

The San Angelo Independent School District (the "district"), which you represent, received a written request for certain records pertaining to "any completed, ongoing, or potential future work done for the District by Assured Indoor Air Quality" ("AIAQ"). You have submitted to this office as being responsive to the request an "overview" of services offered by AIAQ and five "Indoor Air Quality Survey Results" reports.<sup>1</sup> You do not contend that any of the submitted information is excepted from public disclosure, but rather you have requested a decision from this office pursuant to section 552.305 of the Government Code, which allows governmental bodies to rely on third parties having a privacy or property interest in the information to submit their own arguments as to why the requested information should be withheld from the public.

In accordance with section 552.305(d), the district notified AIAQ of the records request and of its right to submit arguments to this office as to why portions of the submitted records should not be released to the public. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances). An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B).

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<sup>1</sup>We assume the district has released the other requested information, to the extent it exists. If not, the district must do so at this time. *See* Gov't Code §§ 552.301, .302.

This office did not receive a response from AIAQ indicating that it wished to have any portion of its records withheld from the public. This office therefore has no basis for concluding that AIAQ has a privacy or property interest in this information. Consequently, the district must release the submitted information to the requestor in its entirety, with the following caveat.

We note that some of the submitted records contain information that is copyright protected. The copyright law gives the copyright holder the exclusive right to reproduce his work, subject to another person's right to make fair use of it. 17 U.S.C. §§ 106, 107. A governmental body must allow *inspection* of copyrighted materials where no exception to required public disclosure otherwise applies. Attorney General Opinion JM-672 at 2-3 (1987). Also, the requestor may make copies of copyrighted materials unassisted by the district. Attorney General Opinion MW-307 (1981). "Of course, one so doing assumes the risk of a copyright infringement suit." *Id.* at 2. Consequently, the district must allow the requestor to view the copyrighted information and also allow him to reproduce the material without the district's assistance. It will be the requestor's responsibility to adhere to the federal copyright law.

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).

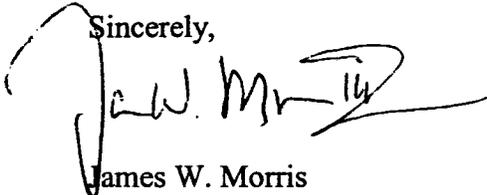
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

James W. Morris  
Assistant Attorney General  
Open Records Division

JWM/RWP/lmt

Ref: ID# 176537

Enc: Submitted documents

c: Mr. John Getsinger  
150 South Fifth Street, Suite 2300  
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(w/o enclosures)

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