



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

March 20, 2003

Mr. Joe A. De Los Santos
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.
P.O. Box 460606
San Antonio, Texas 78246-0606

OR2003-1893

Dear Mr. De Los Santos:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178177.

The Judson Independent School District (the "District"), which you represent, received a request for the following two items of information:

1. "Copies of any legal liability policies in force for the Summer of 1995."
2. "Copies of any accident or safety reports filed for the Converse Elementary campus for 1995."

In a letter we received January 21, 2003, you inform us of the District's withdrawal of its request for a ruling from this office regarding the request for "accident or safety reports." You explain the District sought and received clarification from the requestor, which resulted in the release of some of the requested information with agreed upon redactions. However, with respect to the request for copies of the District's legal liability policies, you assert exception to disclosure under section 552.101 of the Government Code. We have reviewed the information you submitted and we have considered the exception you claim.

You argue the policies are protected from disclosure under section 101.104 of the Texas Civil Practice and Remedies Code, which states the following:

(a) Neither the existence nor the amount of insurance held by a governmental unit is admissible in the trial of a suit under [the Texas Tort Claims Act].

(b) Neither the existence nor the amount of the insurance is subject to discovery.

Tex. Civ. Prac. & Rem. Code § 101.104; *see In re Sabine Valley Center*, 986 S.W.2d 612 (Tex. 1999) (statute “prohibits discovery of insurance covering claims against a governmental unit and against its employees for which it could be liable, directly or vicariously, under the [Texas Tort Claims] Act”). Although the statute provides that the information at issue is not subject to discovery, the statute does not make the information expressly confidential. *See* Open Records Decision No. 551 at 3 (1990) (provisions of section 101.104 “are not relevant to the availability of the information to the public”). Therefore, we conclude the District may not withhold any of the submitted insurance policy information under section 101.104 of the Texas Civil Practice and Remedies Code as section 101.104 is not a confidentiality statute. Accordingly, the District must release this information to the requestor.

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 Dep't of Pub. 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,



Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 178177

Enc: Submitted documents

c: Ms. Susan Feller Heiligenthal
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Austin, Texas 78746
(w/o enclosures)