



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

April 2, 2003

Mr. Lou Bright
General Counsel
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711-3127

OR2003-2238

Dear Mr. Bright:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178764.

The Texas Alcoholic Beverage Commission ("TABC") received a request for information concerning permit/license number MB 483165. You inform us you have released some of the requested information, as well as basic information, including a detailed description of the offense, to the requestor. However, you assert the submitted information labeled Exhibit C is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have reviewed the information you submitted and we have considered the exceptions you claim.

Initially, you inform us Exhibit C contains information subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). In this instance, you inform us the requested information pertains to a completed investigation. Therefore, as section 552.022(a)(1) makes the contents of Exhibit C expressly public, TABC may withhold this information only to the extent it is made confidential under other law or is otherwise protected by section 552.108 of the Government Code.

Next, you assert section 552.108 of the Government Code excepts Exhibit C from required public disclosure. Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us Exhibit C contains information that pertains to a pending criminal prosecution. Further, you explain that TABC's investigation revealed criminal activity, which TABC has reported to the appropriate prosecutorial authorities. Therefore, we believe the release of this information "would interfere with the detection, investigation, or prosecution of crime." *Id.*; see Open Records Decision 493 at 2 (1988) (section 552.108 applies to information gathered by agency if agency reported wrongdoing to proper law enforcement agency and information relates to open investigation).

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), which includes a detailed description of the offense. Thus, with the exception of the basic front page offense and arrest information, TABC may withhold the submitted information in Exhibit C from disclosure based on section 552.108 of the Government Code. TABC has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007. As section 552.108 of the Government Code is dispositive, we need not address your other claimed exceptions.

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).

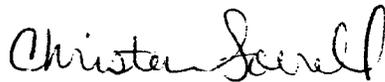
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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# 178764

Enc: Submitted documents

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(w/o enclosures)