



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2004

Mr. David K. Walker
County Attorney
Montgomery County
210 West Davis, Suite #400
Conroe, Texas 77301

OR2004-1348

Dear Mr. Walker:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 196570.

The Montgomery County Clerk (the "county clerk") received a request for "the complete DDL (Data Definition Language) code for all Montgomery County database tables that are available to you and/or fall under your control. This is just the meta data and as such does not contain any PII (Personally Identifiable Information)." You state that the clerk "has no issue with releasing the actual data contained in its database[;] however, the scope of the requested information is specifically targeted towards the manner and means by which the Clerk's computers electronically store and retrieve that information from a database." You claim that this programming information is excepted from disclosure under section 552.228 of the Government Code. We have considered your arguments and reviewed the submitted information.

In this instance, we must address whether the Act applies to the requested information. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. Open Records Decision No. 581 at 6 (1990) (construing predecessor statute). You have included an affidavit from the county clerk's system administrator in which he states that "the request for DDL files is specifically seeking

the computer language code written by Hart InterCivic.” Having considered this representation and reviewed the submitted records, we find that, like the computer-related information at issue in Open Records Decision No. 581, the information at issue here functions solely as a tool to maintain, manipulate, or protect public property and has no independent relevance. *Id.* As such, this type of information is not public information as defined by section 552.002 of the Government Code, and, therefore, is not subject to the Act. Thus, it need not be released in response to this request. As we are able to make this determination, we need not consider your arguments.

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).

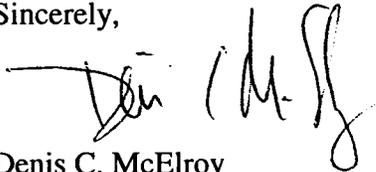
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in black ink, appearing to read "Den (D. McElroy)".

Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

Ref: ID# 196570

Enc. Submitted documents

c: Mr. Dan Rock
c/o Mr. David K. Walker
Montgomery County
210 West Davis, Suite #400
Conroe, Texas 77301
(w/o enclosures)