ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 16, 2004

Mr. James M. Frazier III
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2004-1998

Dear Mr. Frazier:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 197656.

The Texas Department of Criminal Justice (the "department") received a request for the following: (1) all of the State of Texas applications and attachments for the applicants that qualified for an interview for a specified job posting and (2) a copy of the requestor's signed application. You claim that a portion of the requested information, which you have submitted for our review, is excepted from disclosure under sections 552.130 and 552.140 of the Government Code.[1] We assume that, to the extent other information responsive to the instant request exists, it has been released to the requestor. If not, you must do so immediately. *See* Gov't Code §§ 552.006,.301,.302; Open Records Decision No. 664 (2000) (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration or driver's license issued by an agency of this state. Gov't

[1] Although you initially raised sections 552.101, 552.108, and 552.117, you have not submitted arguments explaining how these exceptions apply to the submitted information. Therefore, we presume that you have withdrawn these exceptions.

Code § 552.130(a)(1), (2). Accordingly, you must withhold the Texas motor vehicle information we have marked.

You claim the submitted Department of Defense Form DD-214 is excepted from disclosure under section 552.140 of the Government Code, which provides, in relevant part, as follows:

> (a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

Gov't Code § 552.140(a). You state that the DD-214 form was submitted to the department by an applicant, and was first received by the department after September 1, 2003. Based on this representation and our review, we find that the department must withhold the submitted DD-214 form pursuant to section 552.140.

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,

Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 197656

Enc. Submitted documents

c: Mr. Joe Carnero
12196 El Greco
El Paso, Texas 79936
(w/o enclosures)