



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2004

Mr. D.C. Jim Dozier  
Executive Director  
Texas Commission on Law Enforcement  
6330 US Highway 290 East #200  
Austin, Texas 78723

OR2004-3321

Dear Mr. Dozier:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 200146.

The Texas Commission on Law Enforcement (the "commission") received a request for information regarding a named licensee. The commission has released all of the information to the requestor except for the F-5 form, which the commission asserts is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

In Open Records Letter No. 2004-2523 (2004), we determined that the commission may withhold requested F-5 forms under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code without the necessity of seeking a ruling from this office so long as the five criteria for a previous determination established by this office in Open Records Decision No. 673 (2001) have been met.<sup>1</sup> As we understand the five

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<sup>1</sup>The following are the five criteria for this type of previous determination: (1) the requested records or information at issue fall within a specific, clearly delineated category of information about which this office has previously rendered a decision; (2) the previous decision is applicable to the particular governmental body or type of governmental body from which the information is requested; (3) the previous decision concludes that the specific, clearly delineated category of information is or is not excepted from disclosure under the Act; (4) the elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records or information at issue is or is not excepted from required disclosure; and (5) the previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of again seeking a decision from this office. ORD 673 at 7.

criteria have been met, we conclude that the commission may withhold the requested F-5 form in accordance with Open Records Letter No. 2004-2523.

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).

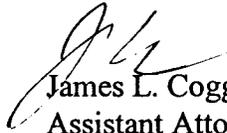
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/seg

Ref: ID# 200146

Enc. Submitted documents

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(w/o enclosures)