



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2004

Mr. Jeffrey L. Moore
Brown & Hofmeister, L.L.P.
1717 Main Street, Suite 4300
Dallas, Texas 75201

OR2004-3379

Dear Mr. Moore:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 200257.

The Highland Village Police Department, (the "department"), which you represent, received a request for information concerning the requestor's client, an applicant for a position with the department. You state that the department has released much of the responsive information to the requestor. You claim, however, that the submitted documents are excepted from disclosure under section 552.140 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The information at issue consists of military discharge documents, including a Department of Defense Form DD-214 and a certificate of honorable discharge. Section 552.140 of the Government Code provides that 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 is confidential for a period of seventy-five years and may only be disclosed in accordance with section 552.140 or in accordance with a court order. Gov't Code § 552.140(a), (b). You state that the discharge documents were obtained by the department in connection with the applicants' application for employment in January, 2004. Based on your representation, we agree that section 552.140 is applicable to the submitted documents.

We note that section 552.140(c) provides that the veteran who is the subject of the discharge documents may obtain a copy of the documents from the department upon presentation of

proper identification. You indicate that the requestor has not satisfied the requirements of section 552.140(c) in this instance. We therefore make the following determination: if the requestor provides proper identification of the veteran who is the subject of the records at issue, the department must release the submitted documents pursuant to section 552.140(c). Otherwise, the department must withhold the submitted documents pursuant to section 552.140 of the Government Code.

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 "Dr. Saldivar", with a long horizontal flourish extending to the right.

David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 200257

Enc: Submitted documents

c: Mr. Donald D. Feare
Law Offices of Donald D. Feare, P.C.
721 West Division Street
Arlington, Texas 76012
(w/o enclosures)