



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2004

Mr. R. Kevin Rhyne
Henslee Fowler Hepworth & Schwartz, LLP
110 North College Avenue
Tyler, Texas 75702

OR2004-6256

Dear Mr. Rhyne:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 205913.

The Carlisle Independent School District (the "district"), which you represent, received a request for six categories of information pertaining to two specified district employees and certain district board meeting minutes for specified periods of time. You state that the district has made some of the requested information available to the requestor. You indicate that the district does not maintain information that is responsive to item two of the request.¹ You also indicate that the remaining requested information, or portions thereof, is excepted from disclosure pursuant to sections 552.101, 552.102, 552.107, 552.114, 552.117, 552.135, and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

¹ We note that it is implicit in several provisions of the Public Information Act (the "Act") that the Act applies only to information already in existence. See Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. See Attorney General Opinion H-90 (1973); see also Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 416 at 5 (1984), 342 at 3 (1982), 87 (1975); *Economic Opportunities Dev. Corp. of San Antonio v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd). A governmental body must only make a good faith effort to relate a request to information which it holds. See Open Records Decision No. 561 at 8 (1990).

Initially, we note that you indicate that the district sought clarification from the requestor with respect to item two of the request. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used). Based on your representations and our review of all of the information that has been submitted to us, it does not appear that the district had received the requested clarification from the requestor as of the date that it requested a ruling from us with regard to the submitted information. Accordingly, we conclude that the district need not respond to this request for information with respect to item two of the request, until it receives the requestor's clarification. We note, however, that when the district does receive the clarification, it must seek a ruling from us before withholding from the requestor any information that may be responsive to item two of the request for information. *See* Open Records Decision No. 663 (1999) (providing for tolling of ten-business day deadline for requesting attorney general decision while governmental body awaits clarification).

Next, we note that some of the documents that we have marked for your review are illegible. As this office cannot review illegible information, we find that the district has failed to fully comply with the procedural requirements of section 552.301 of the Government Code with regard to this particular illegible information. *See* Gov't Code § 552.301(e)(1)(D). Therefore, we have no choice but to order that this illegible information be released pursuant to section 552.302 of the Government Code. *See id.* § 552.302. If the district believes that any portion of this particular information is confidential and may not lawfully be released, it must challenge this ruling in court as outlined below.

In addition, we note that a portion of the submitted information constitutes a medical record that is subject to the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. The MPA provides that "a record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter." Occupations Code § 159.002(b). This office has concluded that the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). Medical records must be released upon the governmental body's receipt of the patient's signed, written consent, provided that the consent specifies (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released. *See* Occ. Code §§ 159.004, .005. Section 159.002(c) also requires that any subsequent release of medical records be consistent with the purposes for which the governmental body obtained the records. *See* Open Records Decision No. 565 at 7 (1990). We have marked the medical record that is subject to the MPA. The district may only disclose this record in accordance with the access provisions of the MPA. *See* Occ. Code § 159.005(a)(5), (b); *see also* Open Records Decision Nos. 598 (1991), 546 (1990) (finding that because hospital treatment is routinely conducted under supervision of

physicians, documents relating to diagnosis and treatment during hospital stay would constitute protected MPA records). Absent the applicability of an MPA access provision, the district must withhold this marked record pursuant to the MPA.

You claim that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.114 of the Government Code. Section 552.114 excepts from disclosure student records at an educational institution funded completely or in part by state revenue. *See* Gov't Code § 552.114(a). Section 552.026 of the Government Code provides: "This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational and Privacy Rights Act of 1974 . . . ["FERPA"]." FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information, other than directory information, contained in a student's education records to anyone but certain enumerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1). "Education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. *See id.* § 1232g(a)(4)(A). This office generally applies the same analysis under section 552.114 and FERPA. *See* Open Records Decision No. 634 at 5 (1995).

In Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution must withhold information that is protected by FERPA and excepted from disclosure by sections 552.026 and 552.101 of the Government Code without the necessity of requesting an attorney general decision as to those exceptions to disclosure, and (2) an educational agency or institution that is state-funded must withhold information that is excepted from disclosure by section 552.114 of the Government Code as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception to disclosure. However, since the district has submitted such information to us for review, we will address your arguments under FERPA.

Information must be withheld under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." *See* Open Records Decision Nos. 332 (1982), 206 (1978). This includes information that directly identifies a student, as well as information that, if released, would allow the student's identity to be easily traced. *See* Open Records Decision No. 224 (1979) (finding student's handwritten comments making identity of student easily traceable through handwriting, style of expression, or particular incidents related in comments protected under FERPA).

Based on your arguments and our review of the remaining submitted information, we find that the portions of this information, which we have marked, constitute personally identifiable information contained in a student's education records. Accordingly, we

conclude that the district must withhold this particular marked information pursuant to section 552.114 of the Government Code and FERPA. *See* Open Records Decision Nos. 539 (1990), 332 (1982), 206 (1978). However, we note that under FERPA, a student's parents or guardians have an affirmative right of access to their child's education records. *See* 20 U.S.C. § 1232g(a)(1)(A); *see also* 34 C.F.R. § 99.3 ("parent" includes legal guardian of student). Accordingly, as the requestor is the parent of some of the children whose identifying information is contained within the remaining submitted information, we find that the requestor has a right of access to this particular identifying information and that, thus, it may not be withheld from the requestor on the basis of either section 552.114 of the Government Code or FERPA.

In addition, we note that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with federal law.² Section 1324a of title 8 of the United States Code provides that an Employment Eligibility Verification Form I-9 "may not be used for purposes other than for enforcement of this chapter" and for enforcement of other federal statutes governing crime and criminal investigations. *See* 8 U.S.C. § 1324a(b)(5); *see also* 8 C.F.R. § 274a.2(b)(4). The release of the I-9 form and associated information that we have marked in response to this request for information would be "for purposes other than for enforcement" of the referenced federal statutes. Accordingly, we conclude that the district may only release this marked I-9 form and associated information in compliance with the federal laws and regulations governing the employment verification system.

You also claim that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. Section 21.355 provides that "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. This office has interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or an administrator. *See* Open Records Decision No. 643 (1996). In that decision, we determined that the word "teacher," for purposes of section 21.355, is a person who is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code, or a school district teaching permit under section 21.055, and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. We also concluded that the word "administrator" in section 21.355 means a person who is required to and does in fact hold an administrator's certificate under subchapter B of chapter 21 of the Education Code and is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *See id.* Based on your arguments and our review of the remaining submitted information, we conclude that the district must withhold the portions

² Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *See* Gov't Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes.

of this information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Further, we note that criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center is confidential. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that the DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083.

Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Accordingly, to the extent that the requested records contain CHRI, the district must withhold that information pursuant to section 552.101 of the Government Code.

We also note that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.101 in conjunction with the common-law right to privacy.³ Information is protected from disclosure by the common-law right to privacy when (1) it is highly intimate and embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See id.* at 683. This office has since concluded that other types of information also are protected from disclosure by the common-law right to privacy. *See* Open Records Decision Nos. 659 at 4-5 (1999) (summarizing information attorney general has determined to be private), 470 at 4 (1987) (illness from severe emotional job-related stress), 455 at 9 (1987) (prescription drugs, illnesses, operations, and physical handicaps), 343 at 1-2 (1982) (references in emergency

³ Section 552.101 of the Government Code also encompasses information that is protected from disclosure by the common-law right to privacy.

medical records to drug overdose, acute alcohol intoxication, obstetrical/gynecological illness, convulsions/seizures, or emotional/mental distress). Prior decisions of this office have also found that financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy, but that there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See, e.g.*, Open Records Decision No. 600 (1992) (information revealing that employee participates in group insurance plan funded partly or wholly by governmental body is not excepted from disclosure). Based on our review of the remaining submitted information, we conclude that the district must withhold the portions of this information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with the common-law right to privacy.

You indicate that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.102(b) of the Government Code. Section 552.102(b) provides that a transcript from an institution of higher education maintained in the personnel file of a professional public school employee is excepted from disclosure pursuant to section 552.102(b), except for the information in the transcript pertaining to the degree obtained or the curriculum. *See Gov't Code § 552.102(b)*. Based on our your arguments and our review of the remaining submitted information, we conclude that the district must withhold the information that we have marked pursuant to section 552.102(b) of the Government Code, except for the information contained within this information pertaining to the curriculum and degree obtained.

In addition, you claim that the information that you submitted to us for review as Exhibit E is excepted from disclosure pursuant to section 552.107(1) of the Government Code. Section 552.107(1) protects information that is encompassed by the attorney-client privilege. *See Gov't Code § 552.107(1)*. When asserting the attorney-client privilege, a governmental body maintains the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. *See Open Records Decision No. 676 at 6-7 (2002)*. First, a governmental body must demonstrate that the information constitutes or documents a communication. *See id.* at 7. Second, the communication must have been made "for the purpose of facilitating the rendition of professional legal services" to the client governmental body. *See TEX. R. EVID. 503(b)(1)*. The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *See In re Texas Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element.

Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. *See TEX. R. EVID. 503(b)(1)(A), (B)*,

(C), (D), (E). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a confidential communication, *see id.* 503(b)(1), meaning it was "not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication." *See id.* 503(a)(5). Whether a communication meets this definition depends on the intent of the parties involved at the time the information was communicated. *See Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, no writ). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein). Based on your representations and our review of Exhibit E, we agree that this information constitutes communications exchanged between privileged parties in furtherance of the rendition of legal services to a client. Accordingly, we conclude that the district may withhold Exhibit E pursuant to section 552.107(1) of the Government Code.

You also claim that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.117 of the Government Code. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who timely request that this information be kept confidential under section 552.024 of the Government Code. *See Gov't Code § 552.117(a)(1)*. However, information that is responsive to a request may not be withheld from disclosure under section 552.117(a)(1) if the employee did not request confidentiality for this information in accordance with section 552.024 or if the request for confidentiality under section 552.024 was not made until after the request for information was received by the governmental body. Whether a particular piece of information is public must be determined at the time the request for it is received by the governmental body. *See Open Records Decision No. 530 at 5 (1989)*. Accordingly, we conclude that to the extent that the district employees with whom the marked section 552.117(a)(1) information is associated elected confidentiality for this information prior to the date that the district received this request, the district must withhold this information pursuant to section 552.117(a)(1) of the Government Code. We note that personal post office box number information is not encompassed by section 552.117 and, thus, may not be withheld from disclosure under section 552.117. *See generally Gov't Code §552.117; see also Open Records Decision No.622 at 4 (1994)* ("The legislative history of section 552.117(1)(A) makes clear that its purpose is to protect public employees from being harassed at home. *See House Committee on State Affairs, Bill Analysis, H.B.1976, 69th Leg. (1985); see also Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985).*"

Nevertheless, we note that these employees' social security numbers may be excepted from disclosure pursuant to section 552.101 in conjunction with federal law. The 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), make confidential social security numbers and related records that were obtained or are maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). The district has cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes it to obtain or maintain social security numbers. Therefore, we have no basis for concluding that these social security numbers are confidential under section 405(c)(2)(C)(viii)(I) of title 42 of the United States Code. We caution the district, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing these social security numbers, the district should ensure that they were not obtained and are not maintained by the district pursuant to any provision of law enacted on or after October 1, 1990.

We note that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130. Accordingly, we conclude that the district must withhold the Texas motor vehicle information that we have marked pursuant to section 552.130 of the Government Code.

You also claim that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.135 of the Government Code. Section 552.135 provides:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

(d) Information excepted under Subsection (b) may be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

(e) This section does not infringe on or impair the confidentiality of information considered to be confidential by law, whether it be constitutional, statutory, or by judicial decision, including information excepted from the requirements of Section 552.021.

Gov't Code § 552.135. Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under this exception to disclosure must clearly identify the specific civil, criminal, or regulatory law that is alleged to have been violated. *See* Gov't Code § 552.301(e)(1)(A). In this case, we find that the district has failed to sufficiently demonstrate that any conduct reported to the district concerns a possible violation of criminal, civil, or regulatory law under section 552.135. Accordingly, we conclude that the district may not withhold any portion of the remaining submitted information under section 552.135 of the Government Code.

Further, you claim that e-mail addresses that are contained within the information that you submitted to us for review as Exhibit F are excepted from disclosure pursuant to section 552.137 of the Government Code. Section 552.137 provides:

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; or

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Gov't Code § 552.137. Section 552.137 requires a governmental body to withhold certain e-mail addresses of members of the public that are provided for the purpose of communicating electronically with the governmental body, unless the members of the public with whom the e-mail addresses are associated have affirmatively consented to their release. Section 552.137 does not apply to a government employee's work e-mail address or a business's general e-mail address or web address. E-mail addresses that are encompassed by subsection 552.137(c) are also not excepted from disclosure under section 552.137. After carefully considering your arguments and reviewing Exhibit F, we find that neither of the e-mail addresses contained within this exhibit is excepted from disclosure under section 552.137(a). Accordingly, we conclude that the district may not withhold any portion of Exhibit F under section 552.137(a) of the Government Code.

Finally, we note that portions of the remaining submitted information are copyrighted. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. *See* Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making such copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

In summary, the district must release the illegible information that we have marked pursuant to section 552.302 of the Government Code. Absent the applicability of an MPA access provision, the district must withhold the information that we have marked pursuant to the

MPA. The district must withhold the information that we have marked pursuant to section 552.114 of the Government Code and FERPA. The district may only release the I-9 form and associated information that we have marked in compliance with the federal laws and regulations governing the employment verification system. The district must withhold the information that we have marked pursuant to section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code and the common-law right to privacy. To the extent that the requested records contain CHRI, the district must withhold that information pursuant to section 552.101 of the Government Code. The district must withhold the information that we have marked pursuant to section 552.102(b) of the Government Code, except for the information contained within this information pertaining to the curriculum and degree obtained. The district may withhold Exhibit E pursuant to section 552.107(1) of the Government Code. To the extent that the district employees with whom the information that we have marked under section 552.117(a)(1) is associated elected confidentiality for this information prior to the date that the district received this request, the district must withhold this information pursuant to section 552.117(a)(1) of the Government Code. Nevertheless, these employees' social security numbers may be confidential under federal law. The district must withhold the Texas motor vehicle information that we have marked pursuant to section 552.130 of the Government Code. The district must release the remaining submitted information to the requestor; however, in doing so, the district must comply with the applicable copyright law for the portions of this information which are copyrighted.

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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/jh

Ref: ID# 205913

Enc. Marked documents

c: Ms. Cathy Johnston
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(w/o enclosures)