



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 29, 2004

Ms. Veronica Ocanas  
Assistant City Attorney  
City of Corpus Christi Legal Department  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2004-8263

Dear Ms. Ocanas:

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# 210029.

The City of Corpus Christi (the "city") received a request for "[a]ny communications, including but not limited to e-mails, letters and memos, between the [city] and Bass Pro Shops" and "any documents in the custody of the [city] relating to Bass Pro Shops." You claim that the requested information is excepted from disclosure under sections 552.107 and 552.131 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Because the applicability of section 552.131 is potentially most broad, we consider it first. Section 552.131 of the Government Code provides as follows:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

- (1) a trade secret of the business prospect; or
- (2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause

substantial competitive harm to the person from whom the information was obtained.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.

(c) After an agreement is made with the business prospect, this section does not except from the requirements of Section 552.021 information about a financial or other incentive being offered to the business prospect:

(1) by the governmental body; or

(2) by another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a governmental body or a reduction in revenue received by a governmental body from any source.

Gov't Code § 552.131. The city asserts that (1) Bass Pro Shops is a business prospect that is seeking to locate a development within the city, (2) the economic development agreement between the city and Bass Pro Shops has not been finalized, and (3) the agreement relates to a financial or other incentive that the city is offering Bass Pro Shops. Having reviewed the submitted information and the city's arguments, we conclude that city may withhold Exhibits A, D, E, F and G, which we have marked, pursuant to section 552.131(b). Because our ruling is dispositive, we need not consider your remaining claimed exception.

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).

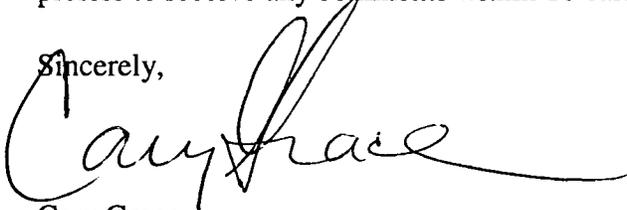
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 cursive script that reads "Cary Grace". The signature is written in black ink and is positioned above the typed name.

Cary Grace  
Assistant Attorney General  
Open Records Division

ECG/jev

Ref: ID# 210029

Enc. Submitted documents

c: Mr. Neal Falgoust  
Corpus Christi Caller Times  
P.O. Box 9136  
Corpus Christi, Texas 78469  
(w/o enclosures)