



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2005

Mr. Gary Grief
Acting Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761

OR2005-09049

Dear Mr. Grief:

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# 233809.

The Texas Lottery Commission (the "commission") received a request for information pertaining to the commission's disaster recovery site and plan. You inform us that you have released some of the information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us that the requestor does not object to the redaction of home addresses or home and cellular telephone numbers of employees. Thus, this ruling does not address the public availability of these types of information in the submitted documents, and the commission is not required to release such information in response to this ruling.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 466.022(b) of the Government Code provides that the following information is confidential and exempt from disclosure:

(1) security plans and procedures of the commission designed to ensure the integrity and security of the operation of the lottery; [and]

(2) information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers[.]

Gov't Code § 466.022(b)(1)-(2). The commission states that release of the marked information "would compromise the lottery games and threaten the integrity and security of the lottery." The commission further states that the submitted documents "contain information designed to ensure against any impropriety or thwarting of security plans and procedures in the operation of the lottery and selection of winning tickets or numbers." Based on your representations and our review of the information at issue, we conclude that the marked information is confidential under section 466.022(b) of the Government Code, and the commission must withhold it under section 552.101 of the Government Code on that basis. The remaining information must be released to the requestor. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/seg

Ref: ID# 233809

Enc. Submitted documents

c: Ms. Liz Austin
4851 LBJ Freeway #300
Dallas, Texas 75244
(w/o enclosures)