



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 2, 2005

Ms. Linda R. Frank  
Assistant City Attorney  
City of Arlington  
P. O. Box 90231  
Arlington, Texas 76004-3231

OR2005-10807

Dear Ms. Frank:

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# 237258.

The City of Arlington (the "city") received a request for the name of an individual involved in a specified conversation. You assert that the request, which was received by the city auditor, was not a proper written request. Alternatively, you claim that the requested information is excepted from disclosure under section 552.116 of the Government Code. We have considered your arguments and reviewed the submitted information.

The Act's disclosure requirements are generally triggered by a governmental body's receipt of a written request for information. *See* Gov't Code § 552.301(a). However, in instances where a written request is submitted to a governmental body by facsimile transmission or through e-mail, the Act, as you note, specifically provides that the request be "sent to the officer for public information, or the person designated by that officer[.]" *Id.* § 552.301(c). Thus, for written requests that are submitted to a governmental body via facsimile or e-mail, the Act's disclosure requirements are triggered only if the request is sent to the governmental body's "officer for public information," or by a person designated by that officer to receive such requests.

In this case, you state that the request was emailed to a city auditor, rather than the city's officer for public information. *See* Gov't Code § 552.201 (officer for public information is

defined as chief administrative officer of governmental body). You also indicate that the city auditor is not a person who has been designated by the city to receive open records requests. We thus conclude that the emailed request at issue here was not a proper request under the Act, and the city need not respond to the request as it fails to comply with the Act. In light of this conclusion, we need not address the asserted exception to public 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).

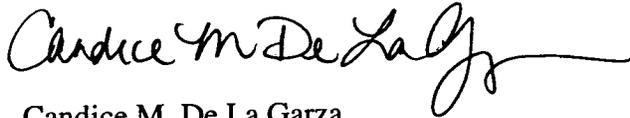
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,

A handwritten signature in black ink, reading "Candice M. De La Garza". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Candice M. De La Garza  
Assistant Attorney General  
Open Records Division

CMD/krl

Ref: ID# 237258

Enc. Submitted documents

c: Mr. Bruce Deramus  
5920 Rocky Point Court  
Arlington, Texas 76018  
(w/o enclosures)