



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 11, 2006

Ms. Leann D. Guzman  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2006-00397

Dear Ms. Guzman:

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# 241267.

The City of Fort Worth (the "city") received a request for information relating to the proposed Trinity Parkway; Trinity Park; the alignment or connection of or new routes between certain streets; certain Master Thoroughfare Plans; the South of Seventh development; and other matters.<sup>1</sup> You inform us that the city has released some of the requested information. You have submitted other information that you claim is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

We note that the requestor is State Representative Lon Burnam ("Rep. Burnam"). Section 552.008 of the Government Code grants access to requested information, including

---

<sup>1</sup>We note that this request for information includes a question. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request for information. See Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). Likewise, a governmental body need not take affirmative steps to create or obtain information that is not in its possession, so long as no other individual or entity holds the information on behalf of the governmental body that received the request. See Gov't Code § 552.002(a); Open Records Decision Nos. 534 at 2-3 (1989), 518 at 3 (1989). However, a governmental body must make a good-faith effort to relate a request to information that is within the governmental body's possession or control. See Open Records Decision No. 561 at 8-9 (1990).

confidential information, to individual members, agencies, or committees of the Texas Legislature. Section 552.008 provides as follows:

(a) Th[e Act] does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

(b) A governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with th[e Act] if the requesting member, agency or committee states that the public information is requested under th[e Act] for legislative purposes. A governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future. The governmental body may require the requesting individual member of the legislature, the requesting legislative agency or committee, or the members or employees of the requesting entity who will view or handle information that is received under this section and that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the requesting entity, or within the requesting entity for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; or

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

(c) This section does not affect:

(1) the right of an individual member, agency, or committee of the legislature to obtain information from a governmental body under other law, including under the rules of either house of the legislature;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

Gov't Code § 552.008. In this instance, Rep. Burnam has informed this office that he requested the information at issue for legislative purposes. Therefore, the city must make the submitted information available to Rep. Burnam in accordance with section 552.008 of the Government Code.<sup>2</sup> *See id.* § 552.008(b). We note that the release of this information to Rep. Burnam under section 552.008 does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the city's right to assert exceptions to required public disclosure of this information in the future. *See id.*

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).

---

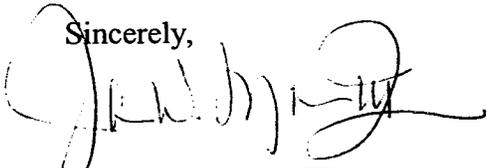
<sup>2</sup>As we are able to make this determination, we do not address the city's claims under sections 552.107 and 552.111.

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, appearing to read 'James W. Morris, III', written over a light blue horizontal line.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 241267

Enc: Submitted documents

c: The Honorable Lon Burnam  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910  
(w/o enclosures)