



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 9, 2006

Mr. K. Scott Oliver  
Assistant Criminal District Attorney  
Bexar County Criminal District Attorney's Office  
300 Dolorosa, Suite 4049  
San Antonio, Texas 78205-3030

OR2006-01349

Dear Mr. Oliver:

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# 242104.

The Bexar County Economic Development Department (the "county") received a request for a tax abatement application. You claim that the requested information is excepted from disclosure under section 552.131 of the Government Code. You also believe that this request for information may implicate the interests of World Savings Bank, FSB ("World Savings"). You notified World Savings of this request for information and of its right to submit arguments to this office as to why the requested information should not be released.<sup>1</sup> We have considered the exception you claim and have reviewed the information you submitted.

Section 552.131 of the Government Code provides in part that "[u]nless 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 [required public disclosure]." Gov't Code § 552.131(b). You inform us that the submitted information relates to the potential location of some of World Savings' facilities in Bexar County. You also inform us that the county and World Savings

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<sup>1</sup>See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). As of the date of this decision, this office has received no correspondence from World Savings. See Gov't Code § 552.305(d)(2)(B).

are in negotiations over the terms and conditions of a possible tax abatement and that no agreement has been reached. You state that the county seeks to withhold the submitted information so that the negotiations will not be compromised. Based on your representations and our review of the information at issue, we conclude that the county may withhold the submitted information under section 552.131(b) of the Government Code. We note that the applicability of section 552.131(b) to the submitted information ends once the county finalizes an agreement with the business prospect. *Id.* § 552.131(c).

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).

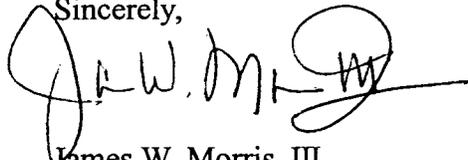
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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, appearing to read 'J.W. Morris, III'. The signature is stylized with a large initial 'J' and a prominent 'M'.

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

JWM/sdk

Ref: ID# 242104

Enc: Submitted documents

c: Ms. Elizabeth Allen  
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(w/o enclosures)

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