



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2006

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2006-06545

Dear Ms. Smith:

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# 252245.

The Texas Department of Public Safety (the "department") received a request for information relating to Weiser Security Services, Inc. during a specified time period. You state that the department has released some of the requested information. You claim that other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We first note that the department failed to comply with section 552.301 of the Government Code in requesting this decision. Section 552.301(b) provides that a governmental body must ask for the attorney general's decision and state the exceptions to disclosure that it claims not later than the tenth business day after the date of its receipt of the written request for information. *See* Gov't Code § 552.301(b). If a governmental body fails to comply with section 552.301, the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Thus, because the department did not request this decision within the ten-business-day period prescribed by section 552.301(b), the submitted information is presumed to be public under section 552.302. This statutory presumption can generally be overcome when the information is confidential by law or third-party interests

are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because the department's claim under section 552.101 of the Government Code can provide a compelling reason for non-disclosure under section 552.302, we will address your arguments.

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that another statute makes confidential. You raise section 552.101 in conjunction with section 1702.084 of the Occupations Code. Section 1702.084 relates to public access to records of disciplinary actions "regarding a person regulated by the [Texas Commission on Private Security (the "commission")]." Occ. Code § 1702.084(a). Subsection 1702.084(d) provides that "[t]he commission shall maintain the confidentiality of information regarding the identification of a complainant." *Id.* § 1702.084(d). You explain that the commission is part of the department. *See id.* §§ 1702.005, .021. You state that the submitted information identifies individuals who made complaints about a company that is subject to the commission's authority. Based on your representations and our review of the submitted information, we have marked the information that the department must withhold under section 552.101 of the Government Code in conjunction with section 1702.084 of the Occupations Code. The rest of the submitted information must be released.

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

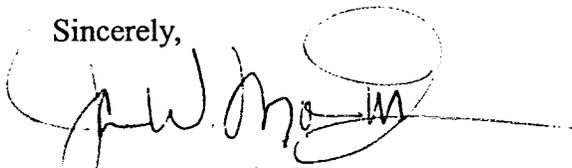
free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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 'James W. Morris, III', with a large circular flourish above the name.

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

JWM/sdk

Ref: ID# 252245

Enc: Submitted documents

c: Mr. Bill Aleshire
Riggs & Aleshire
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Austin, Texas 78701
(w/o enclosures)