



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 1, 2007

Mr. Preston Stone
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2007-02457

Dear Mr. Stone:

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#272611.

The City of Round Rock (the "city"), which you represent, received a request for documents and information relating to the appointment of a specified associate municipal judge to the Round Rock Municipal Court. You claim that the requested information is excepted from disclosure under sections 552.101, 552.102, 552.117, 552.137, and 552.147 of the Government Code.¹ You also indicate that releasing the requested information may implicate the interests of third parties. Accordingly, you have notified the interested third parties of the request and of their opportunity to submit comments to this office. See Gov't Code §§ 552.304 (allowing an interested party to submit comments indicating why the required information should or should not be released), .305 (permitting an interested third party to submit to the attorney general reasons why the requested information should not be released); See also Open Records Decision No. 542 (1990) (determining that the statutory predecessor to section 552.305 allows a governmental body to rely on an interested third party to raise and explain the applicability of the exception to disclosure in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

We note that the submitted information contains a judge's personnel file and job applicant records that constitute judicial records as defined under Rule 12.2 of the Rules of Judicial Administration. See Tex. R. Jud. Admin. 12.2(d) (defining "judicial record"). Therefore, the required public disclosure of the submitted information is governed by Rule 12 of the

¹Although you did not timely raise sections 552.117 and 552.147, these provisions constitute compelling reasons to withhold information, and we will address your arguments under these exceptions. See Gov't Code §§ 552.301, .302.

Rules of Judicial Administration, not the Act. *See* Gov't Code § 552.0035(a). This office does not address questions under those rules. *See* Tex. R. Jud. Admin. 12.9 (providing procedures for appeal of denial of access to judicial records with the Administrative Director of the Office of Court Administration). Therefore, the Act does not apply to the submitted information, and we need not address your arguments under sections 552.101, 552.102, 552.117, 552.137, and 552.147 of the Government Code.

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 "Lori A. Cobos", with a long horizontal flourish extending to the right.

Lori A. Cobos
Assistant Attorney General
Open Records Division

LC/eb

Ref: ID# 272611

Enc. Submitted documents

c: Mr. Ernest Saadiq Morris
Texas Civil Rights Project
1405 Montopolis Drive
Austin, Texas 78741-3438
(w/o enclosures)