



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 19, 2007

Ms. Noelle C. Letteri  
Legal Services Division  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2007-04422

Dear Ms. Letteri:

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# 277973.

The Texas Veterans Land Board (the "board") received several requests for lists of veterans living in various counties. You state that the board has released some of the requested information, but claim that the submitted veterans' names and addresses are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that, in Open Records Letter No. 2007-03370 (2007), we issued a previous determination that authorizes the board to withhold the names and addresses of veterans obtained by the board from the United States Department of Veterans Affairs and the Army National Guard for purposes directly connected with the conduct of programs and the utilization of benefits under title 38 of the United States Code under section 552.101 of the Government Code in conjunction with section 5701 of title 38 of the United States Code. Open Records Letter No. 2007-03370 also serves as a previous determination that authorizes the board to withhold veterans' names and addresses, but not zip codes, obtained by the board from the Texas Department of Transportation for use in carrying out governmental functions under section 552.101 in conjunction with sections 730.004 and 730.013 of the Transportation Code. Thus, the department must withhold these categories of information in the submitted documents in accordance with Open Records Letter No. 2007-03370.

The board also acknowledges, and we agree, that it failed to comply with the procedural requirements of section 552.301 of the Government Code. A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the

governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). The presumption that information is public under section 552.302 can generally be overcome by demonstrating that 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). Section 552.101 can provide a compelling reason to overcome this presumption; therefore, we will address your arguments under this exception.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. Section 11.030 of the Texas Parks and Wildlife Code provides in relevant part the following:

(a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the department may not be disclosed except as authorized under this section or Section 12.0251.

(b) Chapter 552, Government Code, does not apply to customer information described by Subsection (a).

(c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information [.]

Parks & Wild. Code § 11.030(a), (b), (c). The board explains that the Texas Department of Parks and Wildlife released customer information that is confidential under section 11.030 to the board. *See* 31 T.A.C. § 51.304(a)(2) (department may disclose confidential customer information to another agency that agrees to maintain confidentiality of the information). Because section 11.030 expressly excludes customer information from the provisions of the Act, we do not address the board's claim that section 552.101 excepts this information from disclosure.

To conclude, the board must continue to rely on Open Records Letter No. 2007-03370 as a previous determination. The remaining information that is subject to the Act must be released to the requestors.

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).

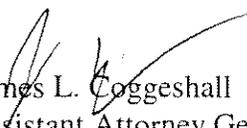
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jb

Ref: ID# 277973

Enc. Submitted documents

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