



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 19, 2007

Ms. Holly C. Lytle  
Assistant County Attorney  
El Paso County  
County Courthouse  
500 East San Antonio, Room 503  
El Paso, Texas 79901

OR2007-09152

Dear Ms. Lytle:

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# 284783.

The El Paso County Attorney's Office (the "county attorney") received a request for "[t]he findings of a human resources investigation into a sexual harassment complaint against Judge Alfredo Chavez." You claim that portions of the submitted information 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, you inform our office that the requested information was the subject of a prior ruling by this office, issued as Open Records Letter No. 2007-08321 (2007). In this letter ruling, we ruled that the county attorney must release the summary after redacting the identifying information of the alleged victim pursuant to section 552.101 in conjunction with common-law privacy and the holding in *Ellen*. We also ruled that the county attorney must continue to rely on Open Records Letter No. 2007-04670 (2007) with respect to the information that was subject to that ruling. Your brief shows the pertinent facts and circumstances have not changed since the issuance of Open Records Letter No. 2007-08321. Thus, the county attorney must continue to rely on Open Records Letter No. 2007-08321 for the requested information, which also was at issue in that prior ruling. See Open Records Decision No. 673 (2001) (governmental body may rely on prior ruling as previous

determination when: 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling).

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).

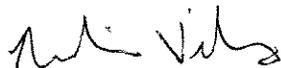
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/jb

Ref: ID# 284783

Enc. Submitted documents

c: Ms. Tammy Fonce-Olivas  
The El Paso Times  
P.O. Box 20  
El Paso, Texas 79999  
(w/o enclosures)