



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 25, 2007

Mr. Bob Schell  
Assistant District Attorney  
Dallas County District Attorney's Office  
411 Elm Street Fifth Floor  
Dallas, Texas 75202

OR2007-09410

Dear Mr. Schell:

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# 289322.

The Dallas County Auditor (the "auditor") received a request for information relating to the salary of a named employee of the Dallas County District Attorney's Office. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We note that the submitted salary information falls within the scope of section 552.022 of the Government Code. Section 552.022(a)(2) provides for required public disclosure of "the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(2). Although you seek to withhold the submitted information under section 552.103 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such,

section 552.103 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(2). Therefore, the auditor may not withhold the submitted information under section 552.103 of the Government Code. As the auditor claims no other exception to disclosure, 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).

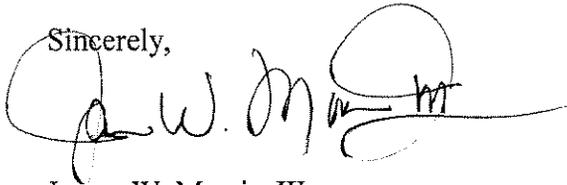
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 "J.W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "W" and a distinct "M" at the end. There is a horizontal line extending from the end of the signature.

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

JWM/ma

Ref: ID# 289322

Enc: Submitted information

c: Ms. Severine Bergeron  
c/o Mr. Bob Schell  
Dallas County District Attorney's Office  
411 Elm Street Fifth Floor  
Dallas, Texas 75202  
(w/o enclosure)