



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 20, 2007

Mr. Ian Fredrickson  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2007-10722

Dear Mr. Fredrickson:

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# 287872.

The Allen Economic Development Corporation (the "AEDC"), which you represent, received a request for information related to the "sale, purchase, or development of any land in Allen Station Business Park[.]" You claim that the requested information is excepted from disclosure under section 552.131 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

We begin by addressing the requestor's assertion that the AEDC waived its arguments by failing to meet the requirements of section 552.301 of the Government Code. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). The requestor contends that the AEDC failed to provide a detailed explanation as to why the exception it raised applies and also failed to submit a copy of the specific information requested or representative samples, labeled to indicate how the exception applies to the documents. However, the AEDC submitted a letter to this office on June 20, 2007, raising the exception it believes applies to the requested information and explaining why the exception it raised applies to the requested information. Further, the information at issue

was submitted to this office as an attachment to the AEDC's June 20<sup>th</sup> letter. Therefore, we find that the AEDC provided the information required under section 552.301, and the requested information is not presumed to be public under section 552.302 of the Government Code.

We next address the AEDC's arguments. Section 552.131(b) of the Government Code provides that "[u]nless and until an agreement is made with [a] business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from [required public disclosure]." *Id.* § 552.131(b). You inform us that the submitted information relates to pending economic development negotiations involving the AEDC and a business prospect. You also indicate that the submitted information includes information concerning possible financial or other incentives being offered to this business prospect. Upon review of your arguments and the submitted information, we conclude that the AEDC may withhold some of the information at issue, which we have marked, under section 552.131(b).<sup>1</sup> However, the remaining responsive information consists of general contract negotiations and does not disclose incentives offered by the AEDC to the business prospect. Thus, we find you have not sufficiently demonstrated how the remaining information consists of a financial or other incentive for purposes of section 552.131(b). Therefore, we conclude that this information is not excepted from disclosure under section 552.131(b) and must be released to the requestor.<sup>2</sup>

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

---

<sup>1</sup>We note that the applicability of section 552.131 ends once the AEDC finalizes an agreement with the business prospect. *See id.* § 552.131(c).

<sup>2</sup>We note that the AEDC does not claim section 552.131(a) of the Government Code as an exception to disclosure.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/mcf

Ref: ID# 287872

Enc. Submitted documents

c: Mr. Matthew W. Moran  
Vinson & Elkins, L.L.P.  
Trammell Crow Center  
2001 Ross Avenue, Suite 3700  
Dallas, Texas 75201-2975  
(w/o enclosures)