



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 30, 2007

Ms. Paula J. Alexander  
General Counsel  
Metropolitan Transit Authority  
P. O. Box 61429  
Houston, Texas 77028

OR2007-15807

Dear Ms. Alexander:

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 #295951.

The Metropolitan Transit Authority of Harris County (the "authority") received a request for "all photographs taken by [a named individual]." You state that you have released all photographs taken by the named individual that were in the authority's custody or control and were used in official authority business. You claim that some of the responsive photographs are not subject to the Act. Alternatively, you claim that these photographs are excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments.

The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Government Code provides that "public information" consists of

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

*Id.* § 552.002(a). Thus, virtually all information that is in a governmental body's physical possession constitutes public information. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You state that you believe that the present information request encompasses certain photographs taken by the named individual on her personal camera during her lunch break. You state that these photographs are the personal property of the named individual and were downloaded to the individual's personal computer at home. You assert that these photographs were not taken in connection with official authority business, and you do not have possession or control of these photographs. Furthermore, you assert that no authority resources were expended in taking or maintaining these photos. This office has found that personal information unrelated to official business is not subject to the Act. *See* Open Records Decision No. 635 (1995) (discusses certain factors used by this office in determining whether certain information is public information). Based on your representations, we find that you have established that they were not collected, assembled, or maintained in connection with the transaction of official business by the authority. Gov't Code § 552.002(a). Because these remaining photographs are not subject to the Act, no additional information need be released to this requestor in response to this request.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 295951

Enc. Submitted documents

c: Mr. Stephen D. Bivens  
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c/o Paula J. Alexander  
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(w/o enclosures)