



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2007

Ms. Karen Rabon
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2007-16598

Dear Ms. Rabon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 298719.

The Office of the Attorney General (the "OAG") received a request for non-privileged documents "regarding Aaron Rents, Inc. ["Aaron"], particularly with regard to cause no. D-1-GV-07-000722." The OAG released some of the information and states it takes no position as to release of the remainder. However, Aaron objects to release of some of the information pursuant to section 552.101 of the Government Code in conjunction with section 17.61(f) of the Business and Commerce Code. We have considered Aaron's comments and reviewed the submitted information. *See* Gov't Code § 552.304 (interested party may submit written comments concerning the availability of requested information).

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information that another statute makes confidential. Section 17.61(f) of the Business and Commerce Code provides:

(f) No documentary material produced pursuant to a demand under this section, unless otherwise ordered by a court for good cause shown, shall be produced for inspection or copying by, nor shall its contents be disclosed to any person other than the authorized employee of the office of the attorney

general without the consent of the person who produced the material. The office of the attorney general shall prescribe reasonable terms and conditions allowing the documentary material to be available for inspection and copying by the person who produced the material or any duly authorized representative of that person. . . .

Bus. & Com. Code § 17.61(f). This provision requires the OAG to withhold from required public disclosure all documentary material the OAG obtained pursuant to a Civil Investigative Demand (“CID”). Aaron argues the information it marked reveals the contents of materials it produced pursuant to the CID it received from the OAG. After reviewing the information, we conclude the information is not confidential because the responses either do not reveal the contents of produced documents or reiterate the items and information requested by the Civil Investigative Demand, which is not confidential under section 17.61(f). Thus, the OAG must release most of the information.

The submitted information includes a private e-mail address. Section 552.137 of the Government Code requires a governmental body to withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. Gov’t Code § 552.137(a), (b). However, an e-mail address provided to a governmental body on a letterhead is not excepted from disclosure under section 552.137(a). *Id.* § 552.137(c). Thus, unless the individual at issue affirmatively consented to the release of his e-mail address, the OAG must withhold the private e-mail address we marked pursuant to section 552.137.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/jh

Ref: ID# 298719

Enc: Marked documents

c: Mr. Andrew E. Sattler
John Dwyre & Associates
4207 Gardendale, Suite 104-B
San Antonio, Texas 78229
(w/o enclosures)

Mr. Jeffrey S. Boyd
Thompson & Knight
1900 San Jacinto Center
98 San Jacinto Boulevard
Austin, Texas 78701-4238
(w/o enclosures)