



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2008

Ms. Lesli R. Barber
Staff Attorney - Administrative Law Section
Legal Services Division
Texas General Land Office
1700 Congress Avenue, Suite 910
Austin, Texas 78701

OR2008-01105

Dear Ms. Barber:

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# 300574.

The Texas General Land Office (the "GLO") received a request for information pertaining to a specified piece of property. Although you take no position with respect to the requested information, you claim that the information may contain proprietary information subject to exception under the Act. Accordingly, you state that you notified TCH, L.P. ("TCH") of the GLO's receipt of the request for information and of the right of it to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received correspondence from TCH and reviewed the submitted information.

We note that TCH has submitted comments stating that it does not object to release of the submitted dune application permit and beachfront construction certificate for residential property. Furthermore, TCH does not raise any exceptions for the remaining submitted

information. Accordingly, the GLO may not withhold any portion of the information at issue on the basis of any proprietary interest that TCH may have in it. As no other exceptions to disclosure are raised, the submitted information must be released to the requestor.

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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/ma

Ref: ID# 300574.

Enc. Submitted documents

c: Mr. Aron Edwards
Project Manager
Berg-Oliver Associates
14701 Saint Mary's Lane, Suite 400
Houston, Texas 77079
(w/o enclosures)

Mr. Bradley J. Stein
Associate General Counsel
Temple-Inland
1300 South Mopac Expressway
Austin, Texas 78746
(w/o enclosures)