



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 14, 2008

Mr. Jesús Toscano, Jr.  
Admin Assistant City Attorney  
City of Dallas  
1500 Marilla, Room 7BN  
Dallas, Texas 75201

OR2008-02114

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 268015.

The City of Dallas (the "city") received a request for information regarding page 2, paragraph 2 of the Mercantile Project Term Sheet. You state that some of the requested information has been, or will be released to the requestor. You claim that the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

We have previously addressed the submitted information in Open Records Letter No. 2005-10616 (2005). The city filed a lawsuit against the Office of the Attorney General challenging Open Records Letter No. 2005-10616 over the release of the submitted information. After suit was filed, the requestor in that case agreed to narrow his request to exclude information subject to the attorney-client privilege. As the requestor no longer sought the information the city claimed was subject to exception, a notice of non-suit was filed and the case was dismissed without the trial court having to make a determination under section 552.107 of

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the Government Code. Because the lawsuit challenging Open Records Letter No. 2005-10616 was dismissed, the underlying ruling remains unchanged and valid.

After the above-mentioned lawsuit was initiated, but before the notice of non-suit was filed, the instant requestor made his request for the same information to the city. The requestor in the instant situation has not narrowed his request to exclude information that the city believes is excepted from disclosure under section 552.107 of the Government Code. Because this office has previously ruled on the submitted information, and you do not inform us, nor are we aware, of any changes with regard to the law, facts, and circumstances on which Open Records Letter No. 2005-10616 was based, we conclude that the city must rely on our decision in Open Records Letter No. 2005-10616 with respect to the information submitted to us for review, and release the submitted information to the requestor. *See* Gov't Code § 552.301(f); *see also* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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).

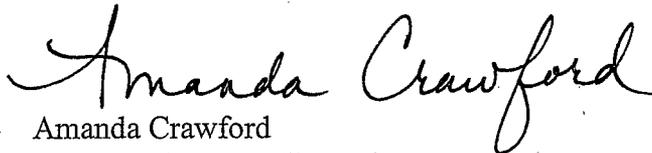
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/sdk

Ref: ID# 268015

Enc. Submitted documents

c: Mr. Walter A. Herring  
Fulbright & Jaworski, L.L.P.  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201-2784  
(w/o enclosures)