



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2008

Mr. Vic Ramirez
Associate General Counsel
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

OR2008-06381

Dear Mr. Ramirez:

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# 314234.

The Lower Colorado River Authority (the "LCRA") received a request for (1) copies of documents at issue in a previous open records request pertaining to Caremark, Inc. ("Caremark") and (2) the pleadings, motions, orders, and other documents pertaining to specified litigation between Caremark and this office. You do not take a position as to whether the submitted information is excepted under the Act; however, you state, and provide documentation showing, that you notified Caremark of the LCRA's receipt of the request for information and of Caremark's right 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 reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note that you did not submit any of the requested pleadings, motions, orders, and other documents pertaining to the specified litigation. We assume that, to the extent any additional responsive information existed when the LCRA received the request for

information, you have released it to the requestor. If not, then you must do so immediately. See Gov't Code §§ 552.006, 552.301, 552.302; Open Records Decision No. 664 (2000).

We next note that the submitted information is the subject of pending litigation between Caremark and this office: *Caremark, LLC v. Abbott*, No. D-1-GN-07-004042 (98th Dist. Ct., Travis County, Tex.). Accordingly, we are closing our file on this matter without a finding and will allow the trial court to resolve the issue of whether these records 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).

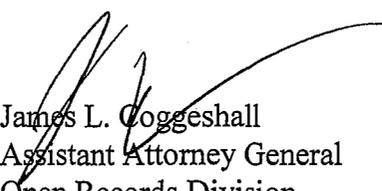
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jh

Ref: ID# 314234

Enc. Submitted documents

c: Ms. Pam Conlon
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