



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 15, 2008

Mr. Steven M. Kean  
Deputy City Attorney  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710

OR2008-06473A

Dear Mr. Kean:

This ruling re-examines Open Records Letter No. 2008-06473 (2008). Although the conclusion remains the same, we must clarify a point of law in the previous decision. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of this chapter). Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on May 13, 2008.

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# 310679.

The City of Tyler Human Resources Department (the "department") received a request for information pertaining to an investigation concerning the requestor. You state that copies of the requestor's original paycheck stubs have already been released to the requestor, but he wants the original records returned to him. You claim that the originals are the subject of an ongoing criminal investigation and are excepted from disclosure under section 552.108 of the Government Code. We note that the department need only provide "a suitable copy" of the responsive documents "within a reasonable time after the date on which the copy is requested." Gov't Code § 552.228(a). Furthermore, the Act does not authorize a requestor to remove the original copy of public information from the governmental body's office. *Id.*

§ 552.226. Therefore, we find that the department has complied with the Act by releasing copies of the responsive documents to the requestor.<sup>1</sup>

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). If the governmental body does not file suit over 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.

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<sup>1</sup>As our ruling is dispositive, we need not address your claim under section 552.108 of the Government Code against disclosure.

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/sdk

Ref: ID# 310679

Enc. Submitted documents

c: Mr. Beauregard Grogan  
12424 Cimmarron  
Tyler, Texas 75709  
(w/o enclosures)