



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2008

Ms. Mindy Ward
City Attorney
City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2008-12795

Dear Ms. Ward:

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# 322084.

The City of San Angelo (the "city") received a request for eight categories of information pertaining to a classification and compensation study conducted for the city, including the city's file on this project. You state that most of the requested information has been released to the requestor. You claim that the submitted draft documents are excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides in part:

(a) the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(5) all working papers, research materials, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate[.]

Gov't Code § 552.022(a)(5). Exhibits A and B pertain to proposed salary changes for all of the city's employees. Thus, we find that the submitted information was used to estimate the

need for or expenditure of public funds. You state that the city has released the final versions of Exhibits A and B to the public by submission to the city council in public meetings. Therefore, we conclude that the estimate has been completed in this instance. Accordingly Exhibits A and B are subject to section 552.022(a)(5) of the Government Code. The city may only withhold Exhibits A and B if they are confidential under other law. You assert that Exhibits A and B are excepted from disclosure under section 552.111 of the Government Code. We note that section 552.111 is a discretionary exception to disclosure that protects the governmental body's interests and may be waived. *See* Open Records Decision No. 470 at 7 (1987) (statutory predecessor to section 552.111 subject to waiver); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions in general). As such, section 552.111 is not other law that makes information confidential for the purposes of section 552.022. Therefore, the city may not withhold Exhibits A and B under this section. As you raise no further exceptions against the disclosure of this information, it 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). 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.

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,

A handwritten signature in cursive script that reads "Laura E. Ream".

Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 322084

Enc. Submitted documents

c: Mr. Russell Smith
P.O. Box 62702
San Angelo, Texas 76906
(w/o enclosures)