



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 19, 2008

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street Third Floor
Fort Worth, Texas 76102

OR2008-12916

Dear Ms. Byles:

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# 326842.

The City of Fort Worth (the "city") received a request for information relating to a fatal accident. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. You state that the remaining information is the subject of a previous open records letter ruling. We have considered your arguments and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* The submitted documents include a crash report that was completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's

accident report). In this instance, the requestor has not provided the city with two of the three specified items of information. Therefore, the city must withhold the crash report pursuant to section 550.065(b) of the Transportation Code.

You state that the rest of the requested information was the subject of a previous request, as a result of which this office issued Open Records Letter No. 2008-11212 (2008). You do not indicate that there has been any change in the law, facts, and circumstances on which the previous ruling is based. We therefore conclude that the city must dispose of the remaining information in accordance with Open Records Letter No. 2008-11212. See Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

In summary: (1) the city must withhold the crash report pursuant to section 550.065(b) of the Transportation Code; and (2) the city must dispose of the rest of the requested information in accordance with Open Records Letter No. 2008-11212.

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).

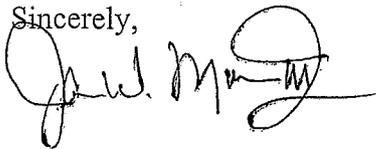
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental

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 black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with the first name "James" and last name "Morris" being the most prominent parts.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/jh

Ref: ID# 326842

Enc: Submitted documents

c: Mr. Joe Esquivel
3205 Kiest Forrest Drive
Dallas, Texas 75233
(w/o enclosures)