



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 21, 2008

Ms. Julia Gannaway
Lynn Pham & Ross, L.L.P.
306 West Broadway Avenue
Fort Worth, Texas 76104

OR2008-14375

Dear Ms. Gannaway:

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# 325257.

The Colorado City Public Housing Authority ("CCPHA"), which you represent, received a verbal request for several categories of information pertaining to a former CCPHA employee and the medical leave policy of CCPHA under the Family and Medical Leave Act ("FMLA").¹ You state that you have released some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.

Section 552.301(a) of the Government Code provides the following:

A governmental body that receives a *written* request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the

¹We note that the requestor has asked CCPHA to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. See Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. See Open Records Decision No. 561 at 8 (1990). We assume CCPHA has made a good faith effort to do so.

attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.

Gov't Code § 552.301(a)(emphasis added). The duty to request a decision from this office as to whether information may properly be withheld under the Act does not arise until the governmental body receives a written request for the information. *See id.* Consequently, the verbal request CCPHA received did not trigger the requirements of section 552.301 of the Government Code. Therefore, this office has no jurisdiction to rule on whether the submitted information is subject to disclosure under the Act. As our ruling is dispositive, we do not address your arguments for exception of the submitted information.

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).

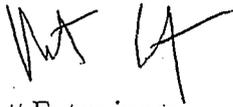
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/jb

Ref: ID# 325257

Enc. Submitted documents

c: Ms. Mary Brown
2152 Chestnut Street
Colorado City, Texas 79512
(w/o enclosures)