



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 26, 2011

Ms. Denise S. Young  
Staff Attorney  
Capital Metropolitan Transit Authority  
2910 East Fifth Street  
Austin, Texas 78702

OR2011-01343

Dear Ms. Young:

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# 407004.

The Capital Metropolitan Transit Authority ("Capital Metro") received a request for seventeen categories of information related to the requestor's client, as well as accidents involving Capital Metro during a specified time period. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note Capital Metro informs us it sought clarification of two categories of the request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed). You indicate Capital Metro has not received clarification of the portions of the request at issue. Thus, for the portions of the requested information for which you have not received clarification, we find Capital Metro is not required to release information in response to those portions of the request. However, if the requestor clarifies those portions of the request for information, Capital Metro must seek a ruling from this office before withholding any responsive information from the requestor. *See City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010).

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. Section 552.101 encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). In *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied), the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment in an employment context. The information at issue concerns allegations that an employee of Capitol Metro sexually harassed a member of the public, not a fellow employee or employees. Because this information does not concern sexual harassment in the employment arena, we find that *Ellen* is not applicable. Therefore, none of the submitted information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy and the court’s holding in *Ellen*. As you raise no further arguments against disclosure, the submitted information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/vb

Ref: ID# 407004

Enc. Submitted documents

c: Requestor  
(w/o enclosures)