



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2012

Mr. Anthony White
Treasurer
Spring Branch Volunteer Fire Department
P.O. Box 399
Spring Branch, Texas 78070

OR2012-01812

Dear Mr. White:

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# 444721.

The Spring Branch Volunteer Fire Department (the "department") received requests from two requestors for a variety of information relating to the operations of the department, to include the membership list "as required in section 8.08" of the department bylaws.¹ You have informed this office that the department has released some of the responsive information to both requestors, but claim that the department is not a governmental body and, thus, the remaining requested information is not public information under the Act. We have considered your arguments.

Initially, we note that in Open Records Letter No. 2009-07305 (2009), this office ruled that the department is a governmental body subject to the Act. In that ruling, we noted that the department was under contract with the Comal County Emergency Services District 4 (the "ESD") to provide fire protection and other emergency services to the ESD. We further noted that the contract between the department and the ESD involved the general support of

¹We note the first request was dated January 2, 2011, while the second request was dated June 21, 2011.

the activities of the department with public funds collected by the ESD. Thus, this office ruled the department's records were subject to the disclosure requirements of the Act. *See* Gov't Code §§ 552.003(1)(A)(xii) (providing that term "governmental body" for purposes of the Act includes several enumerated kinds of entities and "the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]"); 552.003(5) (providing that "public funds" means funds of the state or of a governmental subdivision of the state).

You now inform us, however, that the ESD declared, at its August 24, 2010 Special Board Meeting, that it would assume control of the department. You have provided this office with the minutes of that meeting, which reflect that the motion for the ESD to assume control of the department was unanimously approved. As a result, you further state the department "has not received any public funds" since August 24, 2010. You have also provided this office with a copy of a lawsuit that ESD filed against the department on December 24, 2010 to retain "ownership of all real property, personal property and other equipment acquired by [the department] since 1987 that was funded in whole or in part by tax funds paid by [the ESD]." The pleading states that "in September 2010, [ESD] took over possession, control and operation of all real property, personal property and other fire equipment owned or utilized by [the department] and has assumed all responsibility for provision of fire and rescue services in its geographic service area."

Accordingly, on the basis of our review of the submitted information, and your representation that as of August 24, 2010, the department was no longer under contract with the ESD and has received no public funds collected by the ESD since that date, we conclude that the department ceased to be a governmental body subject to the Act on August 24, 2010. Therefore, we find that to the extent that any information responsive to the two requests exists and was created by the department subsequent to August 24, 2010, any such information is not public information and need not be released to the requestors. However, to the extent that any responsive information exists that was created by the department on or prior to August 24, 2010, we find this information is subject to the Act in accordance with Open Records Letter No. 2009-07305 (2009). As you have not raised any exceptions to disclosure for any such information, it must be released to the respective requestors.

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, 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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 444721

No enclosures

c: 2 Requestors