



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 15, 1997

Ms. Marva M. Gay
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR97-0820

Dear Ms. Gay:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 105440.

The Harris County Auditor and Information Technology Center (the "county") received a request for four categories of information concerning cost, installation, usage, and total monthly charges for a particular phone line during a specified period. You have submitted for our review the information you contend is responsive to the request and ask whether it is excepted from required public disclosure under section 552.110 of the Government Code. We have considered the exception you claim and have reviewed the submitted exhibits.

Chapter 552 of the Government Code places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). Furthermore, we note that when a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of information available so that he or she may narrow the request. Open Records Decision Nos. 563 (1990), 561 (1990) (governmental body must make a good faith effort to relate request to information which it holds). You contend that the county provided to the requestor certain information responsive to item 2 of the requested information. However, the requestor resubmitted an amended clarified request for the same type of information, which you contend does not exist. You also assert that the records responsive to item 4 do not exist, because "the County does not maintain total charges for the individual telephone number," which the county contends serves "as an internal switching number." We note that chapter 552 does not apply to information that does not exist. *See* Open Records Decision No. 555 (1990). Nor does chapter 552 require

a governmental body to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio, 1978, writ *dism'd*). The county should, however, make a *good faith* effort to relate the open records request to information in the county's possession. Open Records Decision No. 87 (1975). We assume that you have advised the requestor that certain information does not exist.

The county contends that items 1 and 3 of the requested records should be excepted from required public disclosure under section 552.110. Section 552.110 protects the property interests of private persons by excepting from disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. We have reviewed the submitted records and arguments made by the county; however, the submitted information is not the type of information that is protected by either prong of section 552.110 of the Government Code.¹ None of the information at issue pertains directly to third-party interests, but rather concerns solely the county's interest in the installation and usage of a phone line. We *therefore conclude that section 552.110 does not apply to items 1 and 3 of the requested information at issue*. Therefore, you may not withhold the records responsive to items 1 and 3, under section 552.110 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

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¹Specifically, we note that section 552.022 of the Government Code, provides in pertinent part:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body, if the information is not otherwise made confidential by law;

Ref.: ID# 105440

Enclosures: Submitted documents

cc: Mr. William H. Ellis
Chairman
The Moscow Business Journal
2122 Lucy Lane
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(w/o enclosures)

