



June 27, 2000

Mr. Larry W. Schenk
City Attorney
City of Paris
P.O. Box 9037
Paris, Texas 75461-9037

OR2000-2454

Dear Mr. Schenk:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136505.

The City of Paris (the “city”) received a request for detailed descriptions of improvements, including the plans, specifications, actual cost, and dates of completion, as well as a description of and cost for machinery and equipment at the Campbell Soup facility in the city. You assert that the requested information may be excepted from required disclosure under section 552.101, 552.110, or 552.131 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Pursuant to section 552.305 of the Government Code, because release of the requested information may implicate the property or privacy rights of a third party, you notified the third party, Campbell Soup Company, of the request for information. However, the third party has not submitted to this office any reason to withhold the requested information or any documentation in support of any such reason. As the city has authority to rely on the third party involved to make its own arguments under section 552.110 of the Government Code, and as the city did so rely and the third party did not respond, the information is not excepted from disclosure under section 552.110.

Similarly, we have no reason to conclude that the information may be withheld under section 552.101 or 552.131 of the Government Code. Section 552.101 excepts from

¹We assume that the records submitted to this office are a “representative sample” of records responsive to the request and that they are truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than those submitted to this office.

disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. Section 552.101 also encompasses common law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992). The documents the city has submitted to this office do not contain any information made confidential under section 552.101.

Finally, you assert section 552.131. Section 552.131 excepts from required disclosure information relating to economic development negotiations between a governmental body and a business prospect that the governmental body wants to encourage to locate, stay, or expand nearby. The protection of section 552.131 is temporary; after a governmental body reaches an agreement with a business prospect, information about incentives offered the business are no longer excepted from disclosure. We have no basis to conclude that any of the information submitted to this office qualifies for protection under section 552.131.

In summary, because the city relied on Campbell Soup Company to establish the applicability of the raised exceptions to required disclosure, and because the company did not submit arguments to this office, the city must release all responsive information to the requestor.

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 appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal 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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/pr

Ref: ID# 136505

Encl. Submitted documents

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