Office of the Attorney General · State of Texas
John Cornyn

January 9, 2001

Mr. John Steiner
Division Chief
City of Austin - Law Department
114 West 7th Street
P.O. Box 96
Austin, Texas 78767-96

OR2001-0095

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143114.

The City of Austin (the "city") received two written requests for the taxi driver license file of a named individual. You contend that the requested information is excepted from disclosure under section 552.108(a)(1) of the Government Code.[1]

Section 552.108(a)(1) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." Based on your representation that the requested information relates to a pending criminal investigation and prosecution, we conclude that you have met your burden of demonstrating the applicability of section 552.108(a)(1) to the information at issue. The city therefore may withhold most of the information at issue pursuant to section 552.108(a)(1).

We note, however, that some of the records contained in the license file are specifically made public under section 552.022(a) of the Government Code. Section 552.022(a) provides in pertinent part:

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

[1]Because we resolve your request under section 552.108, we need not address the applicability of the other exceptions you raised.

> *of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law*:
>
> . . . .
>
> (3) information in an account, voucher, or contract relating to the receipt . . . of public or other funds by a governmental body.

Gov't Code § 552.022(a)(3) (emphasis added). Among the documents at issue are cash receipts for the payment of licensing fees. Such receipts are made public under section 552.022(a)(3) and may not be withheld under any of the exceptions you raised. Accordingly, the city must release to both requestors all such cash receipts contained in the licensing file.

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).

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 General Services Commission 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,

Stephen P. Agan
Assistant Attorney General
Open Records Division

SPA/RWP/seg

Ref: ID# 143114

Encl. Submitted documents

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