



February 7, 2001

Mr. Wesley E. Johnson
Schwartz & Eichelbaum, P.C.
800 Brazos Street, Suite 870
Austin, Texas 78701

OR2001-0478

Dear Mr. Johnson:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 143491.

The Kingsville Independent School District (the "District"), which you represent, received a request for "the Board Minutes of July 18, 2000." Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You submitted to this office general written comments stating that "[a] request has been submitted to the District seeking, among other documents, 'a copy of board meeting 10/03/00: - complaint Level III recording from [certain individuals].'" You did not, however, submit any comments regarding "the Board Minutes of July 18, 2000," which appears to be the subject of the request that you sent to this office.

Pursuant to section 552.303(c) of the Government Code, this office sent a notice to you by facsimile dated January 18, 2001, indicating that additional information was required. Specifically, we asked you to "indicate where in the enclosed request the requestor is asking for the minutes of the 10/03/00 board meeting." We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice

further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue was presumed public. As of the date of this letter, you have not responded to our notice of January 18, 2001. Therefore, the requested information is presumed to be public and must be released unless there exists a compelling reason to withhold the information. *See* Gov't Code § 552.303(e). Because you have not demonstrated a compelling reason to overcome the presumption of openness, we conclude that you must release "the Board Minutes of July 18, 2000."

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 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/seg

Ref: ID# 143491

cc: Mr. Jose R. Soliz
1142 West Yoakum Avenue
Kingsville, Texas 78363