



March 1, 2001

Ms. Tenley A. Calabrese  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2001-0762

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144605.

The Travis County Attorney's office responded to a request for "all depositions taken in regards to Fluor Daniel, Inc. v. Travis County, Civil Action No. A00CA021SS." You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. You indicate that you have notified McGinnis, Lochridge & Kilgore LLP, a party whose interests may be implicated by the release of the responsive information, of the request. The Government Code provides that any interested party may submit comments as to why requested information should be released or withheld. Gov't Code §§ 552.304, 552.305. However, the notified third party did not provide comment to this office.

A governmental body that wishes to withhold requested information must provide to the Attorney General a copy of the specific information requested, or a representative sample thereof, labeled to indicate which exceptions apply to which parts of the copy, no later than fifteen business days after the governmental body receives the written request for information. Gov't Code § 552.301(e)(1)(D),(2) *see also* Gov't Code § 552.301(e)(1)(A) (governmental body must submit comments stating the reasons why the state exceptions apply). If the governmental body does not comply with the requirements of Government Code section 552.301, the requested information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. Gov't Code § 552.302. A compelling reason is demonstrated where information is made confidential by other law, or where third party interests are at issue. Open Record Decision No. 150 (1977). We have no basis for finding information that was not submitted to this office is confidential. Further, in the absence of comment from the third party we have no basis for determining that the party's interests are implicated. As you have not provided any responsive information to this office, and the third party has provided

no comment, all responsive information must be released to this requestor. If you believe any of the responsive information is confidential and may not lawfully be released, you must challenge this ruling in court as outlined below.

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,

A handwritten signature in black ink, appearing to read "Michael Jay Burns".

Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/er

Ref: ID# 144605

cc: Mr. Prat Thakkar, Reporter  
Austin American-Statesman  
305 S. Congress Avenue  
Austin, Texas 78704