



April 25, 2001

Ms. Jessica S. Siegel  
Baker Botts L.L.P.  
One Shell Plaza  
910 Louisiana  
Houston, Texas 77002-4995

OR2001-1675

Dear Ms. Siegel:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146409.

The Harris County Children's Assessment Center (the "center") and the Harris County Children's Assessment Center Foundation (the "foundation") jointly received a written request for fifteen categories of information. You contend that the foundation is not a "governmental body" for purposes of the Public Information Act and therefore is not required to release certain of the requested information. Specifically, the foundation seeks to withhold the following requested items:

4. Any documents or records showing the names, addresses and telephone numbers of members of the [foundation] Board and Partner Council.

5. Any written records detailing how foundation board members are appointed and how long they serve.

....

15. Any records listing the biggest donors to [the center] or foundation and the amount of money they have given.

An entity that is supported in whole or in part by public funds or that spends public funds is a governmental body under the Act. *See* Government Code § 552.003(1)(A)(x) ("Governmental body" . . . means . . . the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported

in whole or in part by public funds.”). Public funds are “funds of the state or of a governmental subdivision of the state.” *Id.* § 552.003(5). You state that the center

receives one-half of its operating budget under a contract with Harris County. The Foundation, a private, non-profit organization, funds the other half of the [center] budget [] through private donations made to the Foundation.

.....

The Foundation is neither a governmental agency nor a part, section, or portion of an organization that spends or is supported by government funds. Instead, the Foundation is a private, non-profit organization that raises private funds. The Foundation contributes money it raises to [the center] to provide services to [the center’s] clients.

Based on these representations, the center is clearly a “governmental body” for purposes of section 552.003 of the Government Code. We thus assume that the center has released all responsive information maintained by the center to which the center has a right of access. If it has not, it must do so at this time. *See* Gov’t Code § 552.302. On the other hand, we conclude that the foundation does not constitute a “governmental body” under section 552.003(1) of the Government Code. The foundation therefore is not required to release any information to the requestor pursuant to the Public Information Act.

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

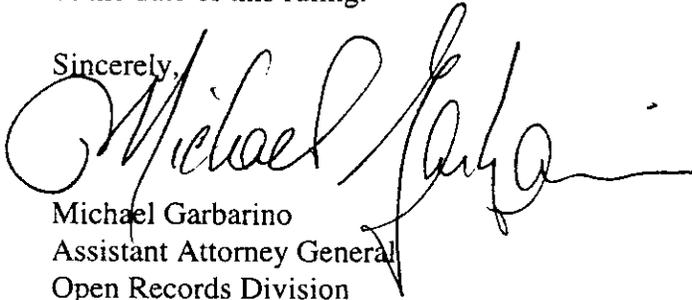
provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to 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 cursive script, appearing to read "Michael Garbarino". The signature is written in black ink and is positioned above the typed name and title.

Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/RWP/seg

Ref: ID# 146409

Encl. Submitted documents

cc: Mr. Steve Brewer  
Houston Chronicle  
P.O. Box 4260  
Houston, Texas 77210  
(w/o enclosures)