



November 1, 2001

Mr. David Zimmerman
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2001-5015

Dear Mr. Zimmerman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 154216.

The Office of the Governor (the "Governor") received three separate requests from the same requestor for the following information: 1) all records of dinner guests at the Governor's Mansion from December 21, 2000 to the present; 2) all records of overnight guests at the Governor's Mansion from December 21, 2000 to the present; and 3) all records of visitors at the Governor's Mansion between December 21, 2000 and the present.¹ Though these three requests were originally assigned separate identification numbers, we have combined these requests into a single ruling with the identification number listed above. You inform us that the Governor has released certain responsive information pertaining to events involving official state business. You argue that the remaining responsive information is not "public information" for purposes of the Public Information Act (the "Act"), or that alternatively, if we determine that it is subject to the Act, that the responsive information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹The requestor in each of the three requests actually requested records for the three categories of information beginning on December 21, 2001. You have notified this office, however, that you have clarified with the requestor that the records being sought are in fact those beginning on December 21, 2000.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We will first address your arguments that the requested information is not “public information” for purposes of the Act. Section 552.021 of the Government Code provides for public access to “public information.” Section 552.002 defines “public information” as

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov’t Code § 552.002.

You argue that the information at issue was not collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business, in that it pertains solely to the Governor’s or his family’s personal, private affairs. You state that any dinners or other events, gatherings or overnight stays represented by the records at issue were not paid for with state funds. You state that although public officials may have attended certain of the events disclosed by the records, no official state business took place and the purpose of the events was purely social. In addition, you note that the Governor’s Mansion is the home of the Governor and is part of his compensation as provided by Article 4, Section 5 of the Texas Constitution.³

On the basis of your arguments and our review of the submitted information, we find that the information was not collected, assembled or maintained by the Governor in connection with the transaction of official state business. Thus, we conclude that the information at issue is not public information under the Act. Therefore, the Governor need not release the submitted information to the requestor. As we find that this information is not subject to the Act, we need not address your raised exceptions to disclosure.

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

³Article 4, Section 5 provides: “[t]he Governor shall, at stated times, receive as compensation for his services an annual salary in an amount to be fixed by the Legislature, and shall have the use and occupation of the Governor’s Mansion, fixtures and furniture.”

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/seg

Ref: ID# 154216

Enc. Submitted documents

c: Mr. Edward Meier
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(w/o enclosures)