



January 4, 2002

Mr. Robert E. Luna
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2002-0066

Dear Mr. Luna:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156977.

The Coppell Independent School District (the "district"), which you represent, received a request for documents that identify the person(s) who signed car rental contracts on a specified date. The requestor states that the requested documents should be in the files of the rental car companies. You claim that the requested information is not subject to the Public Information Act (the "Act"). We have considered your arguments. We have also considered comments submitted to this office by the requestor. Gov't Code §552.304.

You state that you have already provided the requestor with "documents identifying the [d]istrict personnel involved in the transaction." You explain that the requestor is not requesting documents in existence at the district, but rather asking the district to obtain information from third party vendors, the rental car companies. You contend that the district should not be required to ask the third party vendors for contracts in the vendors' possession in order to provide this information to the requestor.

The Act does not ordinarily require a governmental body to obtain information not in its possession. Open Records Decision Nos. 558 (1990), 499 (1988). Section 552.002 of the Government Code, however, 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."

Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under chapter 552 of the Government Code if a governmental body owns or has a right of access to the information. See Open Records Decision No. 462 (1987); cf. Open Records Decision No. 499 (1988) (relevant facts in determining whether information held by consultant is subject to the Public Information Act are: 1) information collected by consultant must relate to the governmental body's official business; 2) consultant must have acted as agent of the governmental body in collecting information; and 3) governmental body must have or be entitled to access to the information). Where a third party has prepared information on behalf of a governmental body, the information is subject to the Act, even though it is not in the governmental body's custody. Open Records Decision No. 558 (1990). Moreover, if a governmental entity employs an agent to carry out a task that otherwise would have been performed by the entity itself, information relating to that task that has been assembled or maintained by the agent is subject to disclosure. Open Records Decision No. 518 (1989).

You explain that the district did not ask nor require the rental car companies to prepare or maintain the information at issue for the district. Further, you claim that the rental car companies do not act as "agents" in holding records for the district. You also explain that if the rental car companies maintain these documents, they do so solely for their own accounting, invoice, and billing purposes and not for the district. Based on these representations, we agree that the car rental companies do not collect, assemble, or maintain the information at issue for the district. See Gov't Code § 552.002. Accordingly, we conclude that the rental contracts maintained by the rental car companies are not subject to disclosure under the 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 Texas Building and Procurement 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/seg

Ref: ID# 156977

Enc. Submitted documents

c: Mr. R. G. Harrell
548 West Oak Grove
Copell, Texas 75019
(w/o enclosures)