



February 28, 2002

The Honorable Tony Goolsby
Chairman
Committee on House Administration
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

OR2002-0993

Dear Representative Goolsby:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 158593.

The Texas House of Representatives (the "House") received a request for the following information:

- (1) A list of all addressees, including names, street address, city, state, and zip, within state District 127 that were mailed a copy of the State's constitutional amendment guide.
- (2) The monthly office accounting of State Representative Joe Crabb for the months of August, September, and October 2001.
- (3) All reimbursements to State Representative Joe Crabb for the months of June, July, August, September, and October 2001.

You state that categories two and three of the request are public information and are being provided to the requestor. However, you claim that the responsive information to category one of the request is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered the comments submitted to this office by the vendor of the requested list. See Gov't Code §§ 552.304, .305.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 306.003 of the Government Code provides

a measure of confidentiality for records of communications between citizens and members of the legislature. Open Records Decision No. 648 (1996). The statute grants members of the legislature the discretion to release information covered by the statute.

Section 306.003 provides as follows:

(a) Records of a member of the legislature or the lieutenant governor that are composed exclusively of memoranda of communications with residents of this state and of personal information concerning the person communicating with the member or lieutenant governor are confidential. However, the member or the lieutenant governor may disclose all or a part of a record to which this subsection applies, and that disclosure does not violate the law of this state.

(b) The method used to store or maintain a record covered by Subsection (a) does not affect the confidentiality of the record.

The confidentiality provision in section 306:003(a) applies to the records of a member or of the lieutenant governor consisting of two kinds of information: 1) records of memoranda of communications with Texas residents and 2) records of personal information about the person communicating with the legislator or lieutenant governor. Thus, "personal information" about a person communicating with a legislator or the lieutenant governor is within section 306.003(a) even if it is not recorded in a memorandum prepared by the member. While section 306.003(a) deems confidential the communications subject to the provision, it gives a legislator the discretion to disclose all or part of such record. Gov't Code § 306.003(a). The requested list of names and addresses was created by a private vendor. A member of the House purchased the list and used it to mail these residents a copy of the state constitutional amendment guide. Therefore, we find that the requested information is confidential under section 306.003 as a record of a legislator composed exclusively of personal information concerning residents who received a communication from a member of the legislature. Accordingly, because chapter 306 of the Government Code was adopted to provide confidentiality for communications between legislators and state residents, Open Records Decision No. 648 at 1 (1996), the House may withhold the requested information pursuant to section 306.003 of the Government Code. As we are able to make this determination, we need not address your remaining argument.

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).

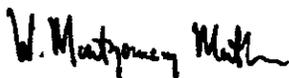
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



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Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 158593

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