



April 18, 2002

Mr. Jesús Toscano, Jr.  
Administrative Assistant City Attorney  
City of Dallas  
1500 Marilla  
Dallas, Texas 75201

OR2002-1979

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 161444.

The City of Dallas (the “city”) received a request for the following information: any engineering, investigative or related studies that discuss the cause of the break in a city water line near the intersection of Northwest Highway and Lawther Street on or about February 8, 2001; all settlement agreements entered into by the city arising out of claims related to the break in the water line; and all documents concerning payment by the city of claims arising out of the break in the water line. You inform us that no settlement agreements have been entered into, and therefore, the city has no documents concerning payment of claims. You claim, however, that the submitted information is excepted from disclosure under section 552.103 of the Government Code. You also argue that the information is protected as work product under rule 192.5 of the Rules of Civil Procedure. We have considered your arguments and reviewed the submitted information.

We first note that you inform us that “[o]n November 26, 2001, the City received a request for the same information. In a letter dated December 10, 2001, our office requested an open records determination from your office that the requested information be withheld from mandatory disclosure.” In response to the previous request you refer to, this office issued Open Records Letter No. 02-0797 (2002), in which we ruled that the city could withhold the requested information in its entirety pursuant to rule 192.5 of the Rules of Civil Procedure. As the current request seeks information that is identical to the information previously requested and ruled upon by this office in OR2002-0797, we conclude you must rely on that

ruling as a previous determination and withhold the requested information in accordance with OR2002-0797. *See* Open Records Decision No. 673 (2001) (so long as law, facts, the circumstances on which prior ruling was based have not changed, the first type of previous determination exists where requested information is precisely the same information as was addressed in a prior attorney general ruling, the ruling is addressed to the same governmental body, and the ruling concludes that the information is or is not excepted from 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 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,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/seg

Ref: ID# 161444

Enc. Submitted documents

c: Mr. Paul Vigushin  
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(w/o enclosures)