OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

September 27, 2002

Ms. Nancy O. Williams
Assistant City Attorney
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2002-5451

Dear Ms. Williams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 169760.

The City of Irving (the "city") received a request that

> the public information contained in the tickets or citations issued by law enforcement authorities for Class C Misdemeanor Offenses as well as the public information contained in any electronic files regarding said tickets or citations be made available on a daily basis and delivered to PublicMatrix.com in the form of an electronic ASCII fixed length text file or dBase table data file as an attachment to an email sent to PublicMatrix.com.

The requestor then lists numerous categories of the specific information to be included, and requests that a "file Layout and Sample Output Document be included with the above requested electronic file that contains the field or column names comprising each record including its length, position, description and sample data." You claim that the city is not required to comply with such a request and that, alternatively, some of the requested information is excepted from disclosure under section 552.130 of the Government Code. We have considered your arguments.

Chapter 552 of the Government Code does not require a governmental body to make available information which did not exist at the time the request was received. Open Records

Decision No. 362 (1983); *see* Open Records Decision No. 452 (1986) (document not within chapter 552's purview if it does not exist when governmental body receives a request for it).[1] Nor does the Public Information Act require a governmental body to inform a requestor if the requested information comes into existence after the request is made. Open Records Decision No. 452 at 8. Consequently, a governmental body is not required to comply with a continuing request to supply information on a periodic basis as such information is prepared in the future. Attorney General Opinion JM-48 at 2 (1983); Open Records Decision Nos. 476 at 1, 465 at 1 (1987). Upon review of the request, we find that the requested information did not exist at the time the city received the request, and further, that the request constitutes a continuing request to supply information as it is prepared in the future. Therefore, we conclude that the city need not comply with the request.

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).

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[1] *Cf.* Open Records Decision No. 561 at 8 (1990) (governmental body has a duty to make a good faith effort to relate a request for information to information the governmental body *holds*).

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,

Kristen Bates
Assistant Attorney General
Open Records Division

KAB/seg

Ref: ID# 169760

c: Mr. John Teeter
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