



October 11, 2002

Mr. Jason Martinson
Open Records Coordinator
Texas Department of Parks & Wildlife
4200 Smith School Road
Austin, Texas 78744-3291

OR2002-5764

Dear Mr. Martinson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 170509.

The Department of Parks & Wildlife ("department") received a request for information relating to complaints, petitions, reports, allegations, and/or claims filed by two specified individuals against certain persons and a certain business and communications between these two specified individuals and the department regarding any such filings. You claim that the submitted information is excepted from disclosure under sections 414.009, 552.101 and 552.108 of the Government Code. We assume that the department has released the remainder of the information responsive to the request; if not, you must do so at this time. *See Gov't Code §§ 552.021, .301, .302; Open Records Decision No. 664 (2000).* We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

¹We 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.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 414.009 provides in pertinent part:

(a) A person who is a member or employee of the [crime stoppers advisory council] or who accepts a report of criminal activity on behalf of a crime stoppers organization commits an offense if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the content of a report of a criminal act or the identity of the person who made the report without the consent of the person who made the report.

Gov't Code § 414.009. You state that the submitted information represents a report submitted to a crime stoppers organization. Based upon this representation, we conclude that the submitted information is confidential per section 414.009 and must be withheld in conjunction with section 552.101. Because section 552.101 is dispositive, we need not address your argument under section 552.108.

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).

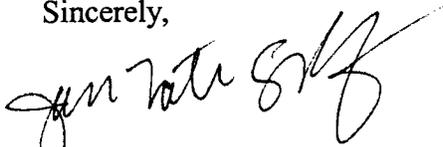
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,



Jon Tate Self
Assistant Attorney General
Open Records Division

JTS/seg

Ref: ID# 170509

Enc. Submitted documents

c: Mr. Stephen B. Schulte
Keith, Weber & Mosty, P.L.L.C.
222 Sidney Baker South, Suite 400
Kerrville, Texas 78028
(w/o enclosures)