OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

October 17, 2002

Ms. Cathy Bradford
Texas Parks & Wildlife
4200 Smith School Road
Austin, Texas 78744-3291

OR2002-5890

Dear Ms. Bradford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 170834.

The Texas Parks and Wildlife Department (the "department") received a request that the department perform a license record search on the individuals listed on the requestor's electronic file to determine whether the individuals hold hunting licenses. Along with his request, the requestor submitted to the department a CD-Rom, which you say contains a list of approximately 20 million names. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered the requestor's comments. *See* Gov't Code § 552.304.

Section 11.030 of the Parks and Wildlife Code provides:

> (a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the department may not be disclosed except as authorized under this section or Section 12.0251.
>
> (b) Chapter 552, Government Code, does not apply to customer information described by Subsection (a).
>
> (c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information[.]

Parks & Wild. Code §11.030.

We find that the information that is responsive to the request for the license records of the individuals on the requestor's submitted list constitutes customer information, and thus is governed by section 11.030. Because subsection (b) of section 11.030 specifically excludes "customer information" from the provisions of Chapter 552 of the Government Code, we conclude that Chapter 552 does not govern the release of such information. However, section 11.030(c)(1) requires that the Parks and Wildlife Commission "by rule shall adopt policies relating to . . . the release of customer information." Accordingly, the department must adhere to the policies adopted by the Parks and Wildlife Commission in determining the extent to which the "customer information" may be released to the requestor.

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,

Kristen Bates
Assistant Attorney General
Open Records Division

KAB/KH/seg

Ref: ID# 170834

Enc: Submitted documents

c: Mr. Wayne Hamilton
Executive Director
Republican Party of Texas
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(w/o enclosures)