



November 19, 2002

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

OR2002-6599

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#172886.

The Texas Parks and Wildlife Department (the "department") received a request for Texas' cervid farm/ranch and/or propagator's permit listing.<sup>1</sup> You claim that some of the information covered by the request is excepted from disclosure under section 552.101 of the Government Code in conjunction with sections 11.030 and 12.0251(a) of the Parks and Wildlife Code. We have considered the exceptions you claim and reviewed the responsive sample of information, which you have submitted as Attachment B.<sup>2</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You assert that section 11.030 of the Parks and Wildlife Code excepts certain information from the Public Information Act. Section 11.030 states that:

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<sup>1</sup>Although the department states throughout its brief that permit applications have been requested, we note that the request is in fact for a list of permit holders and we address the department's arguments on that basis alone.

<sup>2</sup>We 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.

(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).

...

(e) The commission or department may disclose customer information to a federal or state law enforcement agency if the agency provides a lawfully issued subpoena.

Parks & Wild. Code § 11.030(a). Section 12.0251 states that

(b) The commission or the department may disclose information described by this section only to the landowner unless:

(1) the landowner consents to full or specified partial disclosure of information; and

(2) the consent is in writing and is attached to the plan or recommendation report.

Parks & Wild. Code § 12.0251. We conclude that the submitted information contains the names and addresses of persons who purchased permits from the department and disclosure is not authorized under section 11.030. Consequently, except for the limited information of the customers you state have consented to disclosure in accordance with section 12.0251, the department must withhold the information from disclosure based on section 552.101 of the Government Code in conjunction with section 11.030 of the Parks and Wildlife Code.

Although you request that we issue a previous determination with respect to this type of information, we decline to do so at this time. Accordingly, 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,



Heather Pendleton Ross  
Assistant Attorney General  
Open Records Division

HPR/sdk

Ref: ID# 172886

Enc: Submitted documents

c: Ms. Suzanne Folts  
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(w/o enclosures)