



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2003

Ms. Zandra L. Narvaez
Legal Services Division
City Public Service of the City of San Antonio
P.O. Box 1771
San Antonio, Texas 78296-1771

OR2003-7395

Dear Ms. Narvaez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 189562.

The City Public Service of the City of San Antonio ("CPS") received a request for all records pertaining to a specified address and incident on two listed dates. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information is subject to required public disclosure under section 552.022(a) of the Government Code, which provides in relevant part:

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1).

You state that the submitted information includes "internal investigatory documents, photographs of the scene of the incident, witness statements, and the complete CPS file" on the requestor's claim. Upon review of the submitted documents, we find the information is

related to an investigation that lead to the denial of the requestor's claim and is, therefore, considered complete. As prescribed by section 552.022, CPS must release such information unless it is confidential under other law. Section 552.103 of the Government Code is a discretionary exception to disclosure that protects the governmental body's interests and is therefore not other law that makes information expressly confidential for purposes of section 552.022(a). *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103). Therefore, the submitted information may not be withheld under section 552.103 of the Government Code.

We note that the submitted information also contains a social security number. A social security number may be excepted from required public disclosure under section 552.101 of the Government Code in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See Open Records Decision No. 622* (1994). However, section 552.023 of the Government Code gives a person or a person's representative a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. Here, the requestor represents the person whose social security number is at issue. Therefore, CPS must release the social security number 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 Dep't of Pub. 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,



Amy D. Peterson
Assistant Attorney General
Open Records Division

ADP/sdk

Ref: ID# 189562

Enc. Submitted documents

c: Mr. Richard Hobbs
Litigation Administrator
Law Office of Pat Maloney, P.C.
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San Antonio, Texas 78205
(w/o enclosures)