



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 30, 2003

Mr. Jesús Toscano, Jr.  
Administrative Assistant City Attorney  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2003-9354

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 193311.

The Dallas City Marshal (the "city") received a request for information regarding the Lake Ray Hubbard investigative file of Granite Construction. You state that you will provide access to some of the responsive information. You claim that the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information constitutes a completed investigation made of, for, or by the city Illegal Dump Team. Section 552.022 of the Government Code provides that "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body" constitutes "public information... not excepted from required disclosure... unless... expressly confidential under other law" or excepted from disclosure under section 552.108 of the Government Code. Gov't Code § 552.022(a)(1). Because you assert that the submitted information may be withheld pursuant to section 552.108 of the Government Code, we will address this assertion now.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Based on the information you provided, we understand you to

represent that the submitted information pertains to a criminal investigation that concluded in a final result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable. Thus, you may withhold the submitted information from disclosure pursuant to section 552.108(a)(2).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*, including a detailed description of the offense. See *Houston Chronicle Publ'g Co.*, 531 S.W.2d at 186-87. Thus, the office must release the types of information that are considered to be front page information, even if this information is not actually located on the front page. See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Although section 552.108(a)(1) authorizes you to withhold from disclosure the remaining information, the city may choose to release all or part of it that is not otherwise confidential by law. See Gov't Code § 552.007.

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 Peterson  
Assistant Attorney General  
Open Records Division

ADP/DKL/sdk

Ref: ID# 193311

Enc. Submitted documents

c: Mr. Paul Adrian  
Fox 4 News  
400 North Griffin Street  
Dallas, Texas 75202  
(w/o enclosures)