



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

June 1, 2004

Chief Duane Kurtin  
Bartlett Volunteer Fire Department  
P.O. Box 676  
Bartlett, Texas 76511

OR2004-4450

Dear Chief Kurtin:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 202631.

The Bartlett Volunteer Fire Department (the "department") received a request for information pertaining to department funding and the "[n]umber of Money Accounts the [department has], the account number of each, and the current funds in each account." You indicate that most of the responsive information has been released to the requestor. You claim that bank account and routing numbers are excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim.

Initially, we must address your obligations under section 552.301 of the Government Code. Under section 552.301(b), a governmental body that wishes to withhold information from public disclosure must request a ruling from this office and state the exceptions to disclosure that apply to the information not later than the tenth business day after the date of receiving the written request. Within fifteen business days of receiving the request, the governmental body must submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(A)-(D).

You inform us that the department received the request for information on March 1, 2004. You did not request a decision from this office until March 26, 2004. Consequently, you failed to request a decision within the ten-business-day period mandated by section 552.301(b) of the Government Code. Furthermore, you failed to submit the information required by section 552.301(e) of the Government Code within the prescribed fifteen-business-day period. Thus, you failed to comply with the procedural requirements of section 552.301 in requesting a decision from our office with respect to the requested information.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information at issue is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by another source of law or affects third party interests. *See Open Records Decision No. 150 (1977)* (presumption of openness overcome by a showing that information is made confidential by another source of law or affects third party interests). Section 552.136 of the Government Code constitutes such a compelling reason.

Section 552.136 provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. Accordingly, we conclude that the department must withhold bank account and routing numbers contained in the responsive information pursuant to section 552.136 of the Government Code.

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,

A handwritten signature in black ink, appearing to read "Cindy Nettles". The signature is fluid and cursive, with the first name "Cindy" written in a larger, more prominent script than the last name "Nettles".

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jh

Ref: ID# 202631  
Enc. Submitted documents

c: Ms. Valerie Bartlett  
P.O. Drawer B  
Bartlett, Texas 76511  
(w/o enclosures)