ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 21, 2004

Mr. Tommy Yeates
Moore Landrey, L.L.P.
390 Park Street, Suite 500
Beaumont, Texas 77701

OR2004-6061

Dear Mr. Yeates:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 204694.

The Court Appointed Special Advocates of Southeast Texas, Inc. ("CASA"), which you represent, received a request for information concerning a specified period of time and pertaining to the "Texas CASA Statistical Report," "volunteers, board members, staff, advisory board members," certain "Social Economic Information," the "type of abuse alleged outside of actual court proceedings," certain communications, CASA meeting minutes, and CASA newsletters. CASA received a second request from the same requestor for information concerning a specified period of time and pertaining to CASA funding, an "Independent Auditors Report," "Profit and Loss Statement," "Balance Sheet," and "Tax Return." You state that CASA does not maintain some of the requested information.[1] You claim that the remaining requested information is not subject to the Act. In the alternative, you claim that portions of the remaining requested information are excepted from disclosure

[1] We note that it is implicit in several provisions of the Public Information Act (the "Act") that the Act applies only to information already in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Attorney General Opinion H-90 (1973); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 416 at 5 (1984), 342 at 3 (1982), 87 (1975); *Economic Opportunities Dev. Corp. of San Antonio v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.–San Antonio 1978, writ dism'd). A governmental body must only make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990).

pursuant to section 552.101 of the Government Code. We have considered your arguments and have reviewed the submitted information.

Initially, you claim that the submitted information is not subject to the Act because CASA is part of the judiciary and, thus, is not a "governmental body" for purposes of section 552.003 of the Government Code. *See* Gov't Code § 552.003(1)(B). We note that the Act generally requires the disclosure of information maintained by a "governmental body." While the Act's definition of a "governmental body" is broad, it specifically excludes the judiciary. *See id.* Thus, records that are requested of the judiciary are specifically excepted from the provisions of chapter 552 of the Government Code. *See id.* In determining whether a governmental entity falls within the judiciary exception of the Act, this office looks to whether the entity in question is performing a judicial function or acting in a purely administrative role. *See* Open Records Decision No. 646 at 2-3 (1996) (citing *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ)). In *Benavides*, the court explained the purpose of the judiciary exception as follows:

> The judiciary exception . . . is important to safeguard judicial proceedings and maintain the independence of the judicial branch of government, preserving statutory and case law already governing access to judicial records. But it must not be extended to every governmental entity having any connection with the judiciary

*Id.* at 152. The court in *Benavides* found the Webb County Juvenile Board not to be a part of the judiciary. In so finding, the court reasoned that an analysis of the judiciary exception should focus on the governmental body itself and the kind of information that is requested of the governmental body. *See id.* at 151; *see also* Open Records Decision No. 572 (1990). This office has found that in order to fall under the judiciary exclusion, records that are requested of a governmental entity must contain information pertaining to judicial proceedings and the governmental entity must be subject to the direct supervision of a court. *See* Open Records Decision Nos. 671 (2001) (citing Open Records Decision No. 646 at 5 (1996)), 527 (1989) (Court Reporters Certification Board not part of judiciary because records did not pertain to judicial proceedings), 204 (1978) (information held by county judge not pertaining to proceedings before county court subject to Act).

You state that "[CASA] is a non-profit corporation that has been established to recruit, train, and monitor volunteers for the purposes of advocating for children who have been abused or neglected, and who are presently in the court system." You further state:

> [o]ur volunteers are designated as guardian ad litems. The volunteers are the fact finders of the court. We are the "eyes and ears" of the court. After conducting an investigation on behalf of the court, we file reports with the court in which we make various recommendations as to the best interest of the child.

On this basis, you conclude that CASA is subject to the judiciary exclusion. We note that in *Delcourt v. Silverman*, 919 S.W.2d 777 (Tex. App.--Houston [14th Dist.] 1996, writ denied), the court held that a guardian ad litem in a child custody case was entitled to absolute judicial immunity. In reaching this conclusion, the court considered the function of the guardian ad litem. If the guardian ad litem was functioning as an actual functionary or arm of the court, the ad litem should be entitled to judicial immunity. *See Delcourt*, 919 S.W.2d at 784. The court noted that other courts had determined that the function of a guardian ad litem in child custody cases was basically to act as an extension of the court when the ad litem investigates facts and reports to the court what placement was in the child's best interest. *See id.* at 785, *citing Ward v. San Diego County Dep't of Social Services*, 691 F. Supp. 238, 240 (S.D. Cal. 1988). The court concluded that so long as the appointment of the guardian ad litem contemplates the ad litem acting as an extension of the court, the ad litem is entitled to absolute judicial immunity.

We understand from your representations that volunteers associated with CASA are designated from time to time as guardian ad litems by courts in cases involving the abuse or neglect of children. We acknowledge that there could be instances in which information that is requested of CASA pertains to the work of its volunteers as actual functionaries or arms of a court in a particular child abuse or neglect judicial proceeding. However, after carefully considering your arguments and reviewing the submitted information, we find in this instance that neither CASA nor its volunteers is performing a judicial function in maintaining the submitted information. Instead, we find that CASA is maintaining the submitted information in a purely administrative role. We further find that no portion of the submitted information pertains to any specific judicial proceeding in which any CASA volunteers are acting or have acted as an agent or arm of the court. *See Delcourt*, 919 S.W.2d at 781; *see also* Open Records Decision No. 646 (1996) at 4 (function that governmental entity performs determines whether entity falls within judiciary exception to Act). Accordingly, we conclude that the judiciary exclusion in section 552.003(1)(B) of the Government Code is not applicable to CASA in this instance.

In addition, you claim that the submitted information is not subject to the Act because CASA is not otherwise a "governmental body" for purposes of section 552.003 of the Government Code. Section 552.003 defines "governmental body" in part as:

> the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds.

Gov't Code § 552.003(1)(A)(xii). The Act requires a governmental body to make information that is within its possession or control available to the public, with certain statutory exceptions. *See* Gov't Code §§ 552.002(a), .006, .021. Both the courts and this office previously have considered the scope of the definition of "governmental body" under the Act and its statutory predecessor. In *Kneeland v. Nat'l Collegiate Athletic Ass'n*, 850

F.2d 224 (5th Cir. 1988), *cert. denied*, 488 U.S. 1042 (1989), the United States Court of Appeals for the Fifth Circuit recognized that opinions of this office do not declare private persons or businesses to be "governmental bodies" that are subject to the Act "'simply because [the persons or businesses] provide specific goods or services under a contract with a government body.'" *Kneeland*, 850 F.2d at 228 (quoting Open Records Decision No. 1 (1973)). Rather, the *Kneeland* court noted that in interpreting the predecessor to section 552.003, this office's opinions generally examine the facts of the relationship between the private entity and the governmental body and apply three distinct patterns of analysis:

> The opinions advise that an entity receiving public funds becomes a governmental body under the Act, unless its relationship with the government imposes "a specific and definite obligation . . . to provide a measurable amount of service in exchange for a certain amount of money as would be expected in a typical arms-length contract for services between a vendor and purchaser." Tex. Att'y Gen. No. JM-821 (1987), *quoting* ORD-228 (1979). That same opinion informs that "a contract or relationship that involves public funds and that indicates a common purpose or objective or that creates an agency-type relationship between a private entity and a public entity will bring the private entity within the . . . definition of a 'governmental body.'" Finally, that opinion, citing others, advises that some entities, such as volunteer fire departments, will be considered governmental bodies if they provide "services traditionally provided by governmental bodies."

*Id.*

The *Kneeland* court ultimately concluded that the National Collegiate Athletic Association (the "NCAA") and the Southwest Conference (the "SWC"), both of which received public funds, were not "governmental bodies" for purposes of the Act, because both provided specific, measurable services in return for those funds. *See Kneeland*, 850 F.2d at 230-31. Both the NCAA and the SWC were associations made up of both private and public universities. The NCAA and the SWC both received dues and other revenues from their member institutions. *See id.* at 226-28. In return for those funds, the NCAA and the SWC provided specific services to their members, such as supporting various NCAA and SWC committees; producing publications, television messages, and statistics; and investigating complaints of violations of NCAA and SWC rules and regulations. *See id.* at 229-31. The *Kneeland* court concluded that although the NCAA and the SWC received public funds from some of their members, neither entity was a "governmental body" for purposes of the Act, because the NCAA and SWC did not receive the funds for their general support. Rather, the NCAA and the SWC provided "specific and gaugeable services" in return for the funds that they received from their member public institutions. *See id.* at 231; *see also A.H. Belo Corp. v. S. Methodist Univ.*, 734 S.W.2d 720 (Tex. App. – Dallas 1987, writ denied) (athletic departments of private-school members of Southwest Conference did not receive or spend public funds and thus were not governmental bodies for purposes of Act).

In exploring the scope of the definition of "governmental body" under the Act, this office has distinguished between private entities that receive public funds in return for specific, measurable services and those entities that receive public funds as general support. In Open Records Decision No. 228 (1979), we considered whether the North Texas Commission (the "commission"), a private, nonprofit corporation chartered for the purpose of promoting the interests of the Dallas-Fort Worth metropolitan area, was a governmental body. *See id.* at 1. The commission's contract with the City of Fort Worth obligated the city to pay the commission $80,000 per year for three years. *See id.* The contract obligated the commission, among other things, to "[c]ontinue its current successful programs and implement such new and innovative programs as will further its corporate objectives and common City's interests and activities." *Id.* at 2. Noting this provision, this office stated that "[e]ven if all other parts of the contract were found to represent a strictly arms-length transaction, we believe that this provision places the various governmental bodies which have entered into the contract in the position of "supporting" the operation of the Commission with public funds within the meaning of the predecessor to section 552.003(1)(A)(xii). *See id.* Accordingly, the commission was determined to be a governmental body for purposes of the Act. *See id.*

In Open Records Decision No. 602 (1992), we addressed the status under the Act of the Dallas Museum of Art (the "DMA"). The DMA was a private, nonprofit corporation that had contracted with the City of Dallas to care for and preserve an art collection owned by the city and to maintain, operate, and manage an art museum. *See id.* at 1-2. The contract required the city to support the DMA by maintaining the museum building, paying for utility service, and providing funds for other costs of operating the museum. *See id.* at 2. We noted that an entity that receives public funds is a governmental body under the Act, unless the entity's relationship with the governmental body from which it receives funds imposes "a specific and definite obligation . . . to provide a measurable amount of service in exchange for a certain amount of money as would be expected in a typical arms-length contract for services between a vendor and purchaser." *Id.* at 4. We found that "the [City of Dallas] is receiving valuable services in exchange for its obligations, but, in our opinion, the very nature of the services the DMA provides to the [City of Dallas] cannot be known, specific, or measurable." *Id.* at 5. Thus, we concluded that the City of Dallas provided general support to the DMA facilities and operation, making the DMA a governmental body to the extent that it received the city's financial support. *See id.* Therefore, the DMA's records that related to programs supported by public funds were subject to the Act. *See id.*

We note that the precise manner of public funding is not the sole dispositive issue in determining whether a particular entity is subject to the Act. *See* Attorney General Opinion JM-821 at 3 (1987). Other aspects of a contract or relationship that involves the transfer of public funds between a private and a public entity must be considered in determining whether the private entity is a "governmental body" under the Act. *See id.* at 4. For example, a contract or relationship that involves public funds, and that indicates a common purpose or objective or that creates an agency-type relationship between a private entity and a public

entity, will bring the private entity within the definition of a "governmental body" under section 552.003(1)(A)(xii). The overall nature of the relationship created by the contract is relevant in determining whether the private entity is so closely associated with the governmental body that the private entity falls within the Act. *See id.*

We note from our review of the submitted information that CASA is a corporation that spends public funds or is supported in whole or in part by public funds, including funds received from the Crime Victim Services Division of the Office of the Attorney General. In this regard, we note that the submitted grant application information indicates that grant funds are used by CASA for its general support. *See* Open Records Decision Nos. 621 at 5 (1993) (finding Arlington Economic Development Foundation to be governmental body when agreement with city indicates city was providing general support for foundation), 302 (1982) (finding Brazos County Industrial Foundation to be governmental body when it receives unrestricted grant from city); *see also* Attorney General Opinion JM-821 (1987) (receipt of public funds for general support of activities of private organization brings organization within definition of "governmental body"). Further, we note that CASA has failed to adequately demonstrate that the nature of the services that it provides in exchange for these funds is known, specific, or measurable. *See* Open Records Decision No. 602 at 5.

Nevertheless, you assert that, because section 552.003(1)(A)(xi) applies to a "nonprofit corporation" and section 552.003(1)(A)(xii) applies to a "corporation," the legislative purpose behind section 552.003(1)(A)(xii) was to "make a clear distinction between nonprofit corporations and corporations." We disagree. We find that the purpose of section 552.003(1)(A)(xii) is to provide that any part, section, or portion of an entity that is supported in whole or in part by public funds is subject to the Act as a governmental body, regardless of the fact that it may be a nonprofit corporation that in whole or in part receives and spends those funds. We note that our office has consistently found that both private and public nonprofit corporations that in whole or in part are supported by public funds are subject to the Act as governmental bodies. *See, e.g.,* Open Records Decision Nos. 602 (1992) (finding DMA as private, nonprofit corporation subject to Act as governmental body for purposes of section 552.003(1)(A)(xii)), 601 (1992) (finding El Paso Housing Finance Corporation as public, nonprofit corporation subject to Act as governmental body for purposes of section 552.003(1)(A)(xii)), 563 (1990) (finding Texas Guaranteed Student Loan Corporation as public, nonprofit corporation subject to Act as governmental body for purposes of section 552.003(1)(A)(xii)), 228 (1979) (finding North Texas Commission as private, nonprofit corporation subject to Act as governmental body for purposes of section 552.003(1)(A)(xii)).

Thus, after carefully considering your arguments and reviewing the submitted information, we find in this instance that CASA is a governmental body for purposes of section 552.003 of the Government Code. Accordingly, any information requested of CASA that concerns services it provides that are generally supported by public funds is subject to the Act as

public information. *See id.; see also* Gov't Code §§ 552.002(a), .006, .021. Consequently, unless any portion of the submitted information is excepted from disclosure under the Act, it must be released to the requestor. Since CASA claims that portions of the submitted information are excepted from disclosure pursuant to section 552.101 of the Government Code, we will address this claim.

Before reaching CASA's section 552.101 claim, however, we first note that CASA did not submit any information to us for review that is responsive to the portion of the second request that seeks a certain "Independent Auditors Report," "Profit and Loss Statement," "Balance Sheet," and "Tax Return." We, therefore, presume that CASA has already provided the requestor with this information to the extent that it existed on the date that CASA received this second request for information. If not, then CASA must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Next, we note that section 552.022 of the Government Code makes certain information expressly public. Section 552.022 states, in relevant part:

> (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and are not excepted from required disclosure under this chapter unless they are expressly confidential under other law.

Gov't Code § 552.022(a). Two categories of expressly public information under section 552.022 are "a completed report... made of, for, or by a governmental body," and "the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]" Gov't Code § 552.022(a)(1), (2). The submitted information includes completed quarterly statistical reports and the name, sex, ethnicity and titles of employees and officers of CASA. As prescribed by section 552.022, this information must be released to the requestor, unless it is confidential under other law. Section 552.101 of the Government Code constitutes "other law" for purposes of section 552.022; therefore, we will address your claim under section 552.101 with regard to the submitted information.

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. In the opinion *In re Bay Area Citizens Against Lawsuit Abuse*, 982 S.W.2d 371 (Tex. 1998), the Texas Supreme Court determined that the First Amendment right to freedom of association could protect an advocacy organization's list of contributors from compelled disclosure through a discovery request in pending litigation. In reaching this conclusion, the court stated the following:

> Freedom of association for the purpose of advancing ideas and airing grievances is a fundamental liberty guaranteed by the First Amendment. *NAACP v. Alabama*, 357 U.S. 449, 460, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958). Compelled disclosure of the identities of an organization's members or contributors may have a chilling effect on the organization's contributors as well as on the organization's own activity. *See Buckley v. Valeo*, 424 U.S. 1, 66-68, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976). For this reason, the First Amendment requires that a compelling state interest be shown before a court may order disclosure of membership in an organization engaged in the advocacy of particular beliefs. *Tilton*, 869 S.W.2d at 956 (citing *NAACP*, 357 U.S. at 462-63, 78 S.Ct. 1163). "'[I]t is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.'" *Id.*

*Bay Area Citizens*, 982 S.W.2d at 375-76 (footnote omitted). The court held that the party resisting disclosure bears the initial burden of making a *prima facie* showing that disclosure will burden First Amendment rights, but noted that "the burden must be light." *Id.* at 376. Quoting the United State Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1, 74 (1976), the Texas court determined that the party resisting disclosure must show "a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties." *Id.* Such proof may include "specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself." *Id.*

You argue that CASA has, in this instance, made the requisite *prima facie* showing to this office. Considering your representations, the submitted supporting information, and the totality of the circumstances, we agree that you have made a *prima facie* showing that disclosure of the identities of contributors to CASA in this instance will burden First Amendment rights of freedom of association. We believe that the term "contributor" encompasses the identities of both those individuals and corporations who make financial donations to CASA and volunteers who donate their time and services to CASA. We note that the term "contributor" does not encompass members of CASA's governing board or officers or employees of CASA. *See generally* Gov't Code § 552.022(a)(2). In addition, *Bay Area Citizens* does not make confidential information pertaining to the donations themselves, such as the amount donated or types of donations. *See Bay Area Citizens*, 982 S.W.2d at 376-77 (only the names of contributors were at issue). Accordingly, we conclude that CASA must withhold the information contained within the submitted information that identifies contributors under section 552.101 of the Government Code pursuant to the right of association, unless the contributors have waived their right of association.

You also claim that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 264.610 of the Family Code. Section 264.610 provides that "[t]he attorney general may not disclose information gained through reports, collected case data, or inspections that would identify a person working at or receiving services from a volunteer advocate program." Fam. Code § 264.610. Section 264.610 applies only to information maintained by the Office of the Attorney General (the "attorney general"). The information at issue is not maintained by the attorney general. Accordingly, we conclude that CASA may not withhold any portion of the remaining submitted information under section 552.101 of the Government Code in conjunction with section 264.610 of the Family Code.

We note that portions of the submitted information are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with federal law. Section 6103(a) of title 26 of the United States Code makes certain tax return information confidential. *See* 26 U.S.C. § 6103(a). Accordingly, we conclude that CASA must withhold the tax return information that we have marked pursuant to section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.

We also note that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with the common-law right to privacy. Section 552.101 also encompasses information that is protected from disclosure by the common-law right to privacy. Information is protected from disclosure by the common-law right to privacy if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See id.* at 683. In addition, this office has found that the following types of information are protected from disclosure by the common-law right to privacy: personal financial information not relating to a financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Based on our review of the remaining submitted information, we have marked the information that CASA must withhold pursuant to section 552.101 of the Government Code in conjunction with the common-law right to privacy.

In addition, we note that portions of the remaining submitted information are excepted from disclosure pursuant to section 552.136 of the Government Code. Section 552.136 provides

that "[n]otwithstanding 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. Based on our review of the remaining submitted information, we have marked the information that CASA must withhold pursuant to section 552.136 of the Government Code.

Finally, we note that a portion of the remaining submitted information is copyrighted. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. *See* Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making such copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No.550 (1990).

In summary, CASA must release the "Independent Auditors Report," "Profit and Loss Statement," "Balance Sheet," and "Tax Return" that was requested in the requestor's second request for information to the extent that this information existed on the date that CASA received the second request and to the extent that CASA has not already done so. CASA must withhold the information contained within the submitted information that identifies contributors under section 552.101 of the Government Code pursuant to the right of association, unless the contributors have waived their right of association. CASA must withhold the information that we have marked pursuant to section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code and the common-law right to privacy, as well as the information that we have marked pursuant to section 552.136 of the Government Code. CASA must release the remaining submitted information to the requestor; however, in doing so, CASA must comply with the applicable copyright law for the portion of this information which is copyrighted.

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).

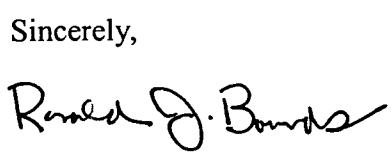
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/jh

Ref: ID# 204694

Enc. Marked documents

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