



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2004

Ms. Julie Joe
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2004-6260

Dear Ms. Joe:

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# 209210.

Travis County Counseling and Education Services ("TCCES") received a request for several categories of information. The requestor also asked several factual questions.¹ You inform us that you are releasing some information and "seeking clarification with respect to some of his questions." *See* Gov't Code § 552.222 (allowing governmental body to ask requestor to clarify or narrow request for information); Open Records Decision No. 663 at 2-5 (1999) (discussing requests to clarify or narrow request for information). You claim that some of the submitted information is excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note, and you acknowledge, that TCCES has not complied with the time periods prescribed by section 552.301 of the Government Code in seeking an open records decision from this office. When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public. *See* Gov't

¹This office has stated on numerous occasions that the Act does not require governmental bodies to answer factual questions or perform legal research. *See, e.g.*, Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990) (construing statutory predecessor). A governmental body must only make a good faith effort to relate a request to information that it holds. *See* Open Records Decision No. 561 at 8 (1990) (construing statutory predecessor). You indicate that TCCES has made a good faith effort to relate these factual questions to information TCCES maintains.

Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.—Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982).

To overcome this presumption, the governmental body must show a compelling interest to withhold the information. See Gov't Code § 552.302; *Hancock*, 797 S.W.2d at 381. Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because section 552.136 can provide a compelling reason to withhold information, we will consider whether that exception applies.

Section 552.136 of the Government Code section 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. Having reviewed the submitted records, we find that none of the information at issue constitutes an access device number for purposes of section 552.136. Thus, none of the submitted information may be withheld pursuant to this exception. As you claim no other exception for this information and it is not otherwise confidential by law, the submitted information must be released.

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).

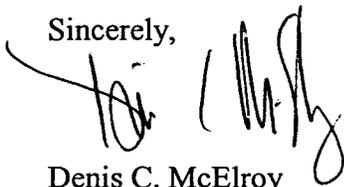
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/sdk

Ref: ID# 209210

Enc. Submitted documents

c: Mr. Robert John Dittmar
6800 McNeil Drive #1433
Austin, Texas 78729
(w/o enclosures)