



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 10, 2005

Mr. Dean L. Krohn  
Assistant General Counsel  
Texas Workers' Compensation Commission  
4000 South IH-35, MS-4D  
Austin, Texas 78704

OR2005-00300

Dear Mr. Krohn:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 216581.

Texas Workers' Compensation Commission (the "commission") received a request for information concerning the outcome of a hearing in a specified case, identified by docket number WS-04-312308-02-CC-WS41. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You indicate, and the documents reflect, that the present request concerns claim file information relating to a workers' compensation claimant who is specifically identified by the requestor. We note that this type of information is the subject of a previous determination issued to the commission under section 552.301 of the Government Code. *See* Gov't Code § 552.301(a).

You seek to withhold the submitted claim file information under section 552.101 in conjunction with section 402.083 of the Labor Code. *See* Open Records Decision No. 619 (2003) (Section 402.083 makes confidential information in or derived from claim file that explicitly or implicitly discloses the identity of employee who files workers' compensation claim). In Open Records Letter No. 2004-9096, issued October 25, 2004, we granted the commission a previous determination finding that claim file information relating to a claimant who is specifically identified by a requestor is excepted from disclosure under

section 552.101 in conjunction with section 402.083, unless the commission is authorized to release the information under sections 402.084 or 402.085 of the Labor Code. That previous determination authorizes the commission to withhold such information without the necessity of requesting a decision from the attorney general, provided the pertinent facts and circumstances have not changed since the issuance of the prior ruling. In this case, you state that the commission is not authorized to release the requested information under sections 402.084 or 402.085 of the Labor Code, and you do not inform us of any change in the law, facts, and circumstances on which the prior ruling is based. We therefore conclude that the commission must withhold the submitted claim file information pursuant to section 552.101 of the Government Code in accordance with the previous determination issued in Open Records Letter No. 2004-9096. *See also* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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 thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten 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 ten 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 ten 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); *Tex. 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 ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Ref: ID# 216581

Enc: Submitted documents

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(w/o enclosures)