



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 16, 2005

Mr. Thomas B. Scollon  
Taylor, Olson, Adkins, Sralla, Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2005-04224

Dear Mr. Scollon:

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# 224127.

The City of Haltom City (the "city"), which you represent, received a request for information relating to a consultant hired by the city. You claim that the request is not valid because the requestor is anonymous. We have reviewed the submitted information.

You inform us that the city received the request via e-mail. You state that the city has, via e-mail, asked the requestor to establish proper identification and that the requestor has specifically declined to establish his or her identity with the city. You assert that pursuant to section 552.222(a) of the Government Code, the city is not required to provide the requested information until the requestor provides proper identification. Section 552.222 of the Government Code provides:

(a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b) or (c).

(b) If what information is request is unclear to the governmental body, the governmental body may ask the request to clarify the request . . . but the governmental may not inquire into the purpose for which the information will be used.

(c) If the information requested related to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information[.]

Gov't Code § 552.222. Since a special right of access to information exists in some circumstances that requires that a requestor establish proper identification, the only permissible inquiry a governmental body may make of a requestor under the Act is to establish proper identification. *See id.* § 552.222(a); *See, e.g.*, Gov't Code § 552.023 (person or person's authorized representative has special right of access to information relating to person and protected from public disclosure by laws intended to protect that person's privacy interests). However, the identity of the requestor is generally not a factor to be considered when a governmental body receives an open record request. *See id.* § 552.223 (requiring uniform treatment of all open records requests). *But see id.* § 552.028 (governmental body not required to accept or comply with request for information from an individual who is imprisoned or confined in a correctional facility, or an agent of the individual other than that individual's attorney). You have not explained, nor can we discern from the submitted information, the reason identification would be necessary in this instance. Furthermore, failure to provide identification under section 552.222 is not grounds for a governmental body to refuse to respond to a request for public information. *See id.* § 552.222. Accordingly, you may not withhold the submitted information on the basis of section 552.222.

You argue that the requestor's identity is required in order to allow the city to determine whether a particular open records request is repetitious or redundant. *See* Gov't Code § 552.232 (outlining procedures governmental body may follow if governmental body does not wish to release information again in response to repetitious or redundant requests). You further argue that the requestor's identity is required in order for the city to charge for providing copies of public information. *See* Gov't Code § 552.261 (outlining procedures governmental may follow to charge for providing copies of public information). Your arguments are based on provisions found in subchapters D and E of the Act, which pertain to the cost and method of producing public information in response to a request. These administrative provisions are not a basis for withholding information under the Act. Since you have not raised any exceptions to disclosure, the city must release the submitted information.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 10 calendar days of the date of this ruling.

Sincerely,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/jev

Ref: ID# 224127

Enc. Submitted documents

c: Mr. John Public  
c/o Mr. Thomas B. Scollon  
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