



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2005

Mr. Edward M. Sosa
Chief Legal Officer
El Paso County Hospital District
4815 Alameda, 8th Floor, Suite B
El Paso, Texas 79905

OR2005-05684

Dear Mr. Sosa:

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# 227093.

The R.E. Thomason General Hospital, which is owned and operated by the El Paso County Hospital District (the "district") received a request for any information related to the district's termination of the requestor's client. You state that some responsive information has been released to the requestor. However, you claim that the remaining requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 161.032 of the Health and Safety Code provides in part:

(c) Records, information, or reports of a . . . compliance officer and records, information, or reports provided by a . . . compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under Chapter 552, Government Code.

...

(f) This section . . . do[es] not apply to records made or maintained in the regular course of business by a hospital . . . [or] hospital district [.]

Health & Safety Code § 161.032(c), (f). You indicate that the submitted information constitute records of the district's compliance officer. Based on our review of the submitted documents, we conclude that the information at issue consists of records, information, or reports of or provided by a compliance officer acting under subchapter D of chapter 161 of the Health and Safety Code. *Cf. Texarkana Mem'l Hosp., Inc. v. Jones*, 551 S.W.2d 33, 35 (Tex. 1977) (defining records made or maintained in regular course of business). Accordingly, the district must withhold the submitted information in Exhibit D under section 552.101 in conjunction with section 161.032 of the Health and Safety 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, 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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 227093

Enc. Submitted documents

c: Mr. David L. Kern
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(w/o enclosures)