



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2005

Ms. Patricia A. Moore
General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

OR2005-09312

Dear Ms. Moore:

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# 234230.

The State Bar of Texas (the "state bar") received a request for records pertaining to a named attorney. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.115, 552.117, 552.136, and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

We next note that some of the information at issue is the subject of a previous determination issued to the state bar under section 552.301 of the Act. *See* Gov't Code § 552.301(a). In Open Records Letter No. 2002-2107 (2002), we granted the state bar a previous determination that it must withhold non-government e-mail addresses belonging to members of the public under section 552.137 of the Government Code, unless the members of the

¹We note that you have redacted information from the submitted documents. A governmental body that submits information to this office for the purpose of requesting an open records ruling must do so in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. As we are able in this instance to ascertain the nature of the information that you have redacted, we will determine whether it is excepted from public disclosure. In the future, however, the state bar should refrain from redacting any information that it submits to this office in seeking an open records ruling. *See* Gov't Code §§ 552.301(e)(1)(D), .302.

public have affirmatively consented to their release. *See* Gov't Code § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001). 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 unless you have received affirmative consent for its release you must withhold the e-mail address in the submitted information in accordance with our decision in Open Records Letter No. 2002-2107. *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)).

Next, we note that a portion of the submitted information consists of information relating to a named attorney's home address, home telephone number, birth date, and internal unique identifier number. The state bar currently has a lawsuit pending against the Office of the Attorney General over the release of similar types of information in *State Bar of Texas v. Abbott*, Cause No. GV403520, 261st District Court of Travis County, Texas. Your arguments in the instant request for a decision are similar to the state bar's arguments in the pending litigation of the prior ruling. Accordingly, we are closing our file with regard to the portion of the submitted information consisting of the named attorney's home address, home telephone number, birth date, and internal unique identifier number without issuing a decision and will allow the trial court to determine whether the types of information at issue must be released to the public.

We now address your claims for the remaining submitted information. Section 552.147 of the Government Code² provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the state bar must withhold the social security number contained in the submitted information under section 552.147.³

In summary, unless you have received affirmative consent for its release you must withhold the e-mail address in the submitted information in accordance with our decision in Open Records Letter No. 2002-2107. We are closing our file with regard to the portion of the submitted information relating to a named attorney's home address, home telephone number, birth date, and internal unique identifier number without issuing a decision and will allow the trial court to determine whether this information must be released to the public. The social security number must be withheld pursuant to section 552.147 of the Government Code. The remaining information must be released.

²Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

³We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Although you request that this office issue a previous determination regarding the information at issue, we decline to do so at this time. 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); *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 Office of the Attorney General 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. 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,

A handwritten signature in cursive script, appearing to read "James Forrest".

James Forrest
Assistant Attorney General
Open Records Division

JF/seg

Ref: ID# 234230

Enc. Submitted documents

c: Mr. M. Kevin Queenan
Queenan Law Firm
1510 North Hampton Road, Suite 110
DeSoto, Texas 75115
(w/o enclosures)