ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 21, 2005

Ms. Charlotte A. Drew
The Drew Law Firm, P.L.L.C.
Lakeside Professional Building
14884 Highway 105 West
Montgomery, Texas 77356

OR2005-10523

Dear Ms. Drew:

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# 236753.

The Magnolia Volunteer Fire Department (the "department"), which you represent, received a request for the fire chief's 2005 mileage and the source of funds for the gasoline used by the fire chief. You contend that the request for the source of funds for the gasoline used requires the department answer a factual question. You also inform us that the department does not maintain a list of the mileage driven for the fire chief's vehicle. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in response to a request for information. *See* Open Records Decision No. 563 at 8 (1990), 555 at 1-2 (1990). However, the Act does require a governmental body to make a good-faith effort to relate a request to information it holds. See Open Records Decision No. 561 at 8 (1990) (construing statutory predecessor). As responsive to the request, you have submitted for our review documents that relate to the mileage driven by the fire chief in 2005. However, you also state that a portion of the financial information in these records, which you have highlighted, is not related to the information sought by the requestor. Based on your representation that this information is not responsive to the request for information, we do not address its public availability, and the department need not release it to the requestor. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd). Finally, the department claims that a credit card number in the submitted information is excepted from disclosure under section 552.136 of the Government Code. We have considered your argument and reviewed the submitted information. We have also considered comments submitted by the requestor. Gov't Code

§ 552.304 (providing that member of public may submit comments stating why information should or should not be released).

Section 552.136 of the Government Code states that "[n]otwithstanding 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(b). We therefore agree that the department must withhold the credit card number in the submitted records pursuant to section 552.136. The remaining responsive information in the submitted documents 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, 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).

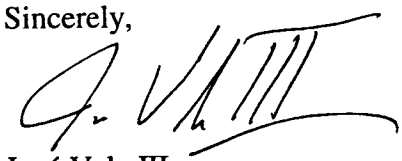
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 236753

Enc. Submitted documents

c: Russell Copeland
34615 Brown Lane
Pinehurst, Texas 77362
(w/o enclosures)