



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2006

Ms. Lisa Biediger
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2006-13583

Dear Ms. Biediger:

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# 264970.

The City of San Antonio (the "city") received a request for "electronic copies of all applications and supporting documents submitted for operational and/or project grants from the [city] through the Office of Cultural Affairs for fiscal year 2006-2007 arts funding." You do not take a position as to whether the submitted information is excepted under the Act; however, you state, and provide documentation showing, that you notified all interested third parties of the city's receipt of the request for information and of each third party's right to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the interested third parties has submitted to this office any reasons explaining why the requested information should not be released. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information of any of the interested third parties, and the

city may not withhold any portion of the submitted information on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). Accordingly, the city must release the submitted information to the requestor.

We note that the requestor seeks electronic copies of the information at issue, but the city has submitted paper copies of the information. Section 552.228 of the Government Code requires a governmental body to provide a copy of the public information in the requested medium if it has the technological ability to do so without the purchase software or hardware. *See* Gov't Code § 552.228(b)(1), (2). Accordingly, if the city has the technological capability to provide the information at issue in the requested electronic format, it must do so; however, if the city does not have the technological capability, it may release the information at issue in the submitted paper format or in another medium acceptable to the requestor. *See* Gov't Code 552.228(c).

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).

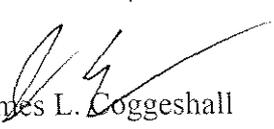
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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. 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 264970

Enc. Submitted documents

c: Mark Abbott
Alamo City Men's Chorale
P. O. Box 120243
San Antonio, Texas 78212
(w/o enclosures)

Renee Davis
Cactus Pear Music Festival
403 Stone Wood
San Antonio, Texas 78216-1625
(w/o enclosures)

Marti Lutich
Ballet San Antonio
903 Proton
San Antonio, Texas 78258
(w/o enclosures)

Kathleen Miller
Children's Fine Art Series
3201 West Avenue
San Antonio, Texas 78213
(w/o enclosures)

Pauline Cashion
Jump-Start Performance Co.
108 Blue Star
San Antonio, Texas 78204
(w/o enclosures)

Bret Ruiz
Guadalupe Cultural Arts
1300 Guadalupe Street
San Antonio, Texas 78207
(w/o enclosures)

Ruth Medellin
Alameda National Center for Latino
Arts and Culture
318 West Houston, Suite 200
San Antonio, Texas 78205
(w/o enclosures)

Marise McDermott
Witte Museum
3801 Broadway
San Antonio, Texas 78209
(w/o enclosures)

Karin Connally
San Antonio Metropolitan Ballet
2800 N.E. Loop 410, Suite 307
San Antonio, Texas 78218
(w/o enclosures)

Patricia Schofield
Symphony Society of San Antonio
P. O. Box 658
San Antonio, Texas 78293-0658
(w/o enclosures)

Richard Rosen
The Magik Children's Theatre
420 South Alamo
San Antonio, Texas 78205
(w/o enclosures)

Lara Lee Wahrmund
Musical Bridges Around the World
7904 Summit Circle
San Antonio, Texas 78256
(w/o enclosures)

Manuel Castillo
San Antonio Cultural Arts, Inc.
1300 Chihuahua
San Antonio, Texas 78207
(w/o enclosures)

Catherine Cisneros
The Urban-15 Group
2500 South Presa
San Antonio, Texas 78210
(w/o enclosures)

Trisha Tanner
ArtPace, Inc.
445 North Main Avenue
San Antonio, Texas 78205-1441
(w/o enclosures)

Mark Richter
San Antonio Opera
1344 South Flores
San Antonio, Texas 78204
(w/o enclosures)

Marguerite McCormick
Children's Chorus of San Antonio
P. O. Box 460042
San Antonio, Texas 78246-0042
(w/o enclosures)

Sylvia Schmidt
Youth Orchestras of San Antonio
106 Auditorium Circle, Suite 130
San Antonio, Texas 78205
(w/o enclosures)

Terry Lowry
Network for Young Artist
P. O. Box 831328
San Antonio, Texas 78283-1328
(w/o enclosures)

Suzanne Dunmire
San Antonio Dance Umbrella
P. O. Box 830634
San Antonio, Texas 78283
(w/o enclosures)

Paula Owen
Southwest School of Art and Craft
300 Augusta
San Antonio, Texas 78205
(w/o enclosures)

Rajam Ramamurthy
Arathi School of Indian Dance
22864 Cielo Vista
San Antonio, Texas 78256
(w/o enclosures)

Jo Reyes-Boitel
San Antonio Youth Centers
P. O. Box 7844
San Antonio, Texas 78207
(w/o enclosures)

Christine M. Sinick
San Antonio Children's Museum
305 East Houston Street
San Antonio, Texas 78205
(w/o enclosures)

Jon Hinojosa
Say Si
1414 South Alamo, Suite 103
San Antonio, Texas 78210
(w/o enclosures)

Roger L. Bessey
Opera Guild of San Antonio
P. O. Box 12290
San Antonio, Texas 78212-0290
(w/o enclosures)

Di Ann Sneed
San Antonio Little Theatre, Inc.
P. O. Box 12356
San Antonio, Texas 78212
(w/o enclosures)

Laura Varela or Fernando Cano
San Antonio Filmmakers
143 East Ackard Place
San Antonio, Texas 78221
(w/o enclosures)

Leslie Ellison
San Antonio Choral Society
P. O. Box 12186
San Antonio, Texas 78212
(w/o enclosures)

Bernice Williams
Contemporary Art for San Antonio
116 Blue Star
San Antonio, Texas 78204
(w/o enclosures)

Marion Oettinger, Jr.
San Antonio Museum of Art
200 West Jones Avenue
San Antonio, Texas 78215
(w/o enclosures)

L. E. Green Schubert
Stone Metal Press
1420 South Alamo, Suite 104
San Antonio, Texas 78210
(w/o enclosures)

Robert Benavides
San Antonio Living History Assn.
5310 San Pedro Avenue
San Antonio, Texas 78212
(w/o enclosures)

Nelda Drury
San Antonio Folk Dance Festival
111 Carolwood
San Antonio, Texas 78213
(w/o enclosures)

Malena Gonzalez Cid
Centro Cultural Aztlan
803 Castroville Road, Suite 402
San Antonio, Texas 78237
(w/o enclosures)

Rosemary Catacalos
Gemini Ink
513 South Presa
San Antonio, Texas 78205
(w/o enclosures)

Bryce Milligan
Wings Press
627 East Guenther
San Antonio, Texas 78210
(w/o enclosures)

Anne Johnson
San Antonio International Piano
Competition, Inc.
P. O. Box 39636
San Antonio, Texas 78218
(w/o enclosures)

Christina Ortega
Hispanic Heritage Society
P. O. Box 90136
San Antonio, Texas 78209
(w/o enclosures)

Frank Villani
ARTS San Antonio
222 East Houston Street, Suite 400
San Antonio, Texas 78205
(w/o enclosures)

Rene Saenz
Esperanza
922 San Pedro
San Antonio, Texas 78212
(w/o enclosures)

Dora Pena
NALIP-SA
6631 Spring Manor
San Antonio, Texas 78249
(w/o enclosures)

Pat Jasper
International Accordion Festival
P. O. Box 39843
San Antonio, Texas 78218
(w/o enclosures)

Ms. Laura Jesse
San Antonio Express-News
P. O. Box 2171
San Antonio, Texas 78297
(w/o enclosures)