



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 10, 2006

Ms. Denise Monday
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-396

OR2006-00327

Dear Ms. Monday:

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# 239833.

The City of San Antonio (the "city") received a request for information pertaining to a HUD 108 loan to support the redevelopment of the Friedrich building. You inform us that most of the requested information has been released. You also state, and provide documentation showing, that you notified Friedrich Lofts, Ltd. ("Friedrich"), an interested third party, of the city's receipt of the request for information and of the right of Friedrich 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). You claim that the submitted information is excepted from disclosure under section 552.131 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.131(b) of the Government Code states that "[u]nless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from [required public disclosure]." You inform us that the submitted documents contain "financial information on the TIF's, BEDI grants and other incentives that the developers

will be receiving in order to do this project.” The city also states the submitted information relates to ongoing negotiations involving the city and that “no agreement has been made.” Based on your representations and our review of the submitted information, we conclude that the city may withhold the submitted information under section 552.131. However, we note that the applicability of section 552.131 ends once the city finalizes an agreement with the business prospect. *See* Gov’t Code § 552.131(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).

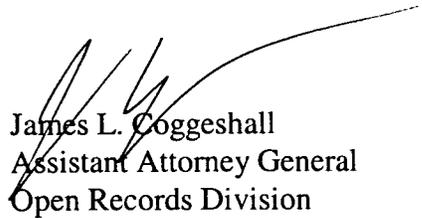
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

Ref: ID# 239833

Enc. Submitted documents

c: Mr. Hussein Ali
The San Antonio Observer
3427 Belbium Lane
San Antonio, Texas 78219
(w/o enclosures)