ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2006

Mr. Leonard V. Schneider
Ross, Banks, May, Cron & Cavin, P.C.
Attorneys at Law
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2006-02745

Dear Mr. Schneider:

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# 244471.

The City of Magnolia (the "city"), which you represent, received a request for five categories of information relating to the city's finances and the city's water and sewer system, as well as a request for fifteen items of information relating to the city hall, the city council, and a specified lease agreement between the city and the City of Magnolia Community Development Corporation (the "development corporation"). You state the city will release the information responsive to the five parts of the request relating to the city's finances and the city's water and sewer system. You also state the city will release the lease agreement between the city and the development corporation in response to the requested item of information pertaining to the lease.

The items of information relating to the city hall and city council sought by the requestor require responses to questions posed by the requestor. You claim the Act does not require the city to respond to these questions because the Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). In this instance, because the requestor is asking the city to answer factual questions or create new information, we conclude that the city is not required by the Act to respond to the remaining questions at issue. *But see* Open Records Decision Nos. 561 at 8-9 (1990), 551 at 2-3 (1990) (laws or ordinances are open records), 221 at 1 (1979) ("official records of the public proceedings of a governmental body are among the most open of records").

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,

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/krl

Ref: ID# 244471

Enc. Submitted documents

c: Mr. Robert L. Windham
203 Dogwood Trail
Magnolia, Texas 77354-5201
(w/o enclosures)