



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2006

Mr. Eric Munoz
Schwartz & Eichelbaum, P.C.
Mission Consolidated Independent School District
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2006-12037

Dear Mr. Munoz:

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# 261928.

The Mission Consolidated Independent School District (the "district"), which you represent, received a request for eight categories of information pertaining to the requestor's client's employment with the district. You state that the district has released most of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.130 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the district's obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(a), (b). You state that the district received the request on July 24, 2006. Accordingly, the deadline for the district to request a ruling from this office was August 7, 2006. However, your request for a ruling from this office was postmarked on August 9, 2006. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract

carrier, or interagency mail). Consequently, the district failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Because sections 552.130 and 552.135 can provide compelling reasons to withhold the information from disclosure under section 552.302, we will address your arguments concerning these exceptions for the submitted information.

You claim that portions of the information in Exhibit C should be withheld under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state[,] a motor vehicle title or registration issued by an agency of this state[, or] a personal identification document[.]” Gov’t Code § 552.130. Therefore, the district must withhold the Texas motor vehicle record information you have highlighted in Exhibit C under section 552.130 of the Government Code.

You claim that portions of the information in Exhibit B should be withheld under section 552.135 of the Government Code. Section 552.135 provides in part:

(a) “Informer” means a student or former student or an employee or former employee of a school district who has furnished a report of another person’s or persons’ possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer’s name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student’s or former student’s name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee’s or former employee’s name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov't Code § 552.135(a)-(c). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under this exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* §§ 552.301(e)(1)(A), .135(a). You state that Exhibit B reveals the identity of an employee of the district who reported possible violations of a specific criminal law. Based on your representations and our review of the information in question, we conclude that the district must withhold the information we have marked in Exhibit B under section 552.135 of the Government Code. The remaining information in Exhibit B does not reveal the identity of an informer, and therefore may not be withheld under section 552.135.

In summary, the district must withhold the information you have highlighted in Exhibit C under section 552.130 of the Government Code. The district must also withhold the information we have marked in Exhibit B under section 552.135 of the Government Code. The remaining information must be released to the requestor.

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,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/eb

Ref: ID# 261928

Enc. Submitted documents

c: Mr. Tony Conners
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(w/o enclosures)