



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2007

Ms. Lisa Woods
Deputy Commissioner
Texas Department of Agriculture
P. O. Box 12847
Austin, Texas 78711

OR2007-02121

Dear Ms. Woods:

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# 271882.

The Texas Department of Agriculture (the "department") received a request (internal tracking number TDA-PIR-07-152) for "the listing of Farmer stored grain in [a specified] facility as of [the department's] last inspection in July 2006[.]" You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by other statutes. You claim that the information at issue is excepted from disclosure pursuant to section 552.101 in conjunction with section 14.012 of the Agricultural Code, which provides in relevant part as follows:

- (a) The following information, prepared by the department in the course of its regulatory authority under this chapter or required to be submitted to the department in accordance with the department's administration of this chapter, is confidential and not subject to public disclosure:

(1) inspection or investigation reports containing information regarding grain inventory[.]

Agric. Code § 14.012(a)(1). You explain that the department investigates possible violations of chapter 14 of the Agriculture Code, which relates to the operation of public grain warehouses. You state that the submitted information was obtained from the specified grain warehouse as part of a department inspection in July 2006. You do not inform this office that any of the release provisions of section 14.012(b) or the limitations of section 14.011 apply to the information. See Agric. Code §§ 14.011, 14.012(b). Based upon your representations and our review of the submitted documents, we conclude that the submitted information is confidential under section 14.012 of the Agriculture Code and excepted from disclosure pursuant to section 552.101 of the Government Code.

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(c).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/eb

Ref: ID# 271882

Enc. Submitted documents

c: Mr. Bruce Kroeker
Texas State Bank
Mission, Texas 78572
(w/o enclosures)