



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 17, 2007

Ms. Angie Gonzalez-de los Rios  
Communications and Marketing Coordinator  
Donna Independent School District  
904 Hester Avenue  
Donna, Texas 78537

OR2007-04287

Dear Ms. Gonzalez-de los Rios:

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# 276090.

The Donna Independent School District (the "district") received a request for district cellular telephone records for the month of November. You claim that some of the submitted information is excepted from disclosure under sections 552.108 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that the submitted information consists of itemized cellular telephone bills. Section 552.022 provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). Upon review of the submitted records, we conclude that because the submitted bills are "information in an account, voucher, or contract relating to the . . . expenditure of public funds," section 552.022(a)(3) is applicable to the submitted

information. Gov't Code § 552.022(a)(3). Therefore, the bills must be released to the requestor unless they are expressly made confidential under other law. *See id.* You argue that the cellular telephone numbers assigned to district police department officers, as well as the call details corresponding to these numbers, are excepted from disclosure under section 552.108 of the Government Code. We note, however, that section 552.108 is a discretionary exception and, as such, generally does not make information confidential under section 552.022. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 522 at 4 (1989) (discretionary exceptions in general). Accordingly, we conclude that the district may not withhold the submitted information under section 552.108 of the Government Code.

You also assert that the submitted cellular telephone records contain an account number that is subject to section 552.136 of the Government Code. Section 552.136 is other law for purposes of section 552.022 and provides in relevant part:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

The district must withhold the account number information that you have marked in the submitted cellular telephone records, along with the additional information we have marked, pursuant to section 552.136 of the Government Code. The remaining information must be released.

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).

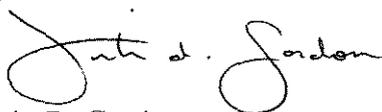
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Justin D. Gordon  
Assistant Attorney General  
Open Records Division

JDG/eeg

Ref: ID# 276090

Enc. Submitted documents

c: Ms. Raquel Martinez  
1208 East Hernandez Road  
Donna, Texas 78537  
(w/o enclosures)