



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2007

Mr. Charles S. Stone
Executive Director
Office of Rural Community Affairs
P.O. Box 12877
Austin, Texas 78711

OR2007-04500

Dear Mr. Stone:

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# 279992.

The Office of Rural Community Affairs ("ORCA") received a request for documents and emails of a named ORCA employee "that concern the Sandow power generation facility . . . or the consent decree among Alcoa, the United States, Neighbors for Neighbors ("NFN"), Public Citizen, and Environmental Defense." You do not take a position as to whether the submitted information is excepted under the Act; however, counsel for NFN, in correspondence to this office, asserts that the requested information is either not subject to the Act or protected under the attorney-client privilege. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have reviewed the submitted arguments and the submitted information.

We initially note that the Act only applies to public information. *See* Gov't Code §§ 552.021, 552.221. Section 552.002(a) of the Act defines "public information" as information "collected, assembled, or maintained under a law or ordinance or in connection with transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a). Thus, under this provision, information is generally "public information" within the scope of the Act when it relates to the official business of a governmental body or is maintained by a public official or employee in the performance of official duties, even

though it may be in the possession of an individual. After review of the submitted information, we find that it consists entirely of personal information that is unrelated to the transaction of official ORCA business. Accordingly, we conclude that the submitted information does not constitute public information for purposes of section 552.002(a), and ORCA is not required to release it to the requestor pursuant to the Act. *See* Open Records Decision No. 635 at 4 (1995) (statutory predecessor to section 552.002 was not applicable to personal information unrelated to official business and created or maintained by a state employee involving de minimis use of state resources).

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).

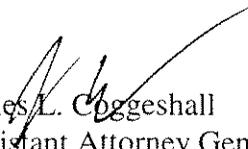
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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/jb

Ref: ID# 279992

Enc. Submitted documents

c: Ms. Janet Atwood
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(w/o enclosures)