



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 1, 2007

Mr. Brett Norbraten
Open Records Attorney
Texas Department of Aging and Disability Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2007-06860

Dear Mr. Norbraten:

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# 280085.

The Texas Department of Aging and Disability Services (the "department") received a request for the following information pertaining to a named individual: (1) all letters, reports, memoranda, or other paperwork, including but not limited to paperwork generated during a staffing meeting on November 21, 2006 between the department, APS, and the Dallas County Probate Court; (2) all referrals for guardianship; and (3) all letters, reports, memoranda, or other paperwork generated in response to any referrals for guardianship. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered the exceptions 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, such as section 161.111(a) of the Human Resources Code, which provides as follows:

- (a) All files, reports, records, communications, or working papers used or developed by the department in the performance of duties relating to the assessment for or the provision of guardianship services to an individual

referred for guardianship services under this subchapter are confidential and not subject to disclosure under Chapter 552, Government Code.

Hum. Res. Code § 161.111(a). You state that the submitted information consists of “files, reports, records, communications, and working papers developed specifically for [d]epartmental assessment of a particular client’s guardianship needs[.]” You do not indicate that any of the release provisions of section 161.111(b)-(d) of the Human Resources Code or section 10.401 of title 40 of the Texas Administrative Code apply to the submitted information. *See* Hum. Res. Code §§ 161.111(a)-(d); 40 T.A.C. § 10.401. Based on your representations and our review of the submitted information, we conclude that the submitted information is confidential pursuant to section 161.111(a) of the Human Resources Code, and the department must withhold it under section 552.101 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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/ma

Ref: ID# 280085

Enc. Submitted documents

c: Ms. Kristen Holland
The Dallas Morning News
c/o Mr. Brett Norbraten
Texas Department of Aging and Disability Services
P.O. Box 149030
Austin, Texas 78714-9030
(w/o enclosures)