



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2007

Mr. John S. Schneider, Jr.
First Assistant City Attorney
City of Pasadena
P.O. Box 672
Pasadena, Texas 77501-0672

OR2007-08277

Dear Mr. Schneider:

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# 282670.

The City of Pasadena (the "city") received a request for "all cell phone records since October 2006" for two specified telephone numbers. You claim that the requested information is not public information subject to disclosure under the Act. Alternatively, you claim that the requested information is excepted from disclosure under sections 552.101, 552.102, 552.109, and 552.117 of the Government Code. We have considered your claims and reviewed the submitted information.

We first address your contention that the requested information is not public information subject to the Act. The Act applies to "public information," which is defined under section 552.002 as:

information that is collected, assembled, or maintained under a law or ordinance or in connection with the 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; *see also id.* § 552.021. You explain that the mayor and his executive assistant, whose records are the subject of this request, sometimes use their personal cellular phones to make or receive calls relating to the business of the city. However, you explain that the cellular phones “were not purchased with public funds and the phone bills generated by their use are not paid with public funds.” You explain that neither official receives any reimbursement or allowance from the city for use of these phones. You indicate that the personal cellular telephone bills are never submitted to the city, nor does the city own or have a right of access to these personal cellular phone bills.¹ Based on your representations, we agree that the cellular telephone bills at issue are not “public information” under the Act because the bills are not collected, assembled, or maintained by or for the city. *See id.* § 552.002. As we are able to make this determination, we need not address your arguments for this information.

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).

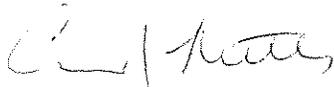
¹Further, you inform us that the representative sample of cellular telephone bills was obtained from the telephone companies solely for the purpose of submitting such bills to this office for our review with respect to the public information request.

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/mcf

Ref: ID# 282670

Enc. Submitted documents

c: Mr. J.J. Isbell
P.O. Box 5339
Pasadena, Texas 77508
(w/o enclosures)