



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2007

Mr. Jeffrey L. Moore
Brown & Hoffmeister, L.L.P.
For the City of Italy
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2007-10724

Dear Mr. Moore:

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# 287005.

The City of Italy (the "city"), which you represent, received a request for all information pertaining to internal investigations of two named police officers, including information pertaining to all complaints filed against the officers and any disciplinary action taken. You state that you will release a portion of the responsive information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the submitted information consists of a polygraph evaluation, an Equal Employment Opportunity Commission report, and information pertaining to an injury sustained by one of the named individuals. Upon review of the request and of your arguments, it does not appear that the requestor has actually requested these records. Thus we find that these documents, which we have marked, are not responsive to this request. Accordingly, the city need not release these documents in response to this request and this ruling will not address this non-responsive information.

You assert that the marked portions of the internal affairs investigation are excepted under section 552.130 of the Government Code, which provides in part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state;
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

Gov't Code § 552.130(a). You have marked license plate numbers and a driver's license that you claim are excepted from disclosure. Upon review of the investigative documents, we agree that the city must withhold the marked information under section 552.130 of the Government Code. As you raise no other exceptions to disclosure, the remaining portions of the investigation must be released to the requestor.

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,

A handwritten signature in black ink, appearing to read "MA Akin", with a stylized flourish at the end.

M. Alan Akin
Assistant Attorney General
Open Records Division

MAA/mcf

Ref: ID# 287005

Enc. Submitted documents

c: Mr. Lance F. Wyatt
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(w/o enclosures)