



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 19, 2007

Ms. Myra K. Morris
Royston, Rayzor, Vickery & Williams, L.L.P.
Frost Bank Plaza
802 North Carancahua, Suite 1300
Corpus Christi, Texas 78470

OR2007-12192

Dear Ms. Morris:

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# 289399.

The Jim Wells County District Clerk's Office (the "district clerk") received a request for all written correspondence between the district clerk and a named individual for a specified time period. You state that you have released a portion of the requested information. You claim that the submitted information is not subject to disclosure under the Act. In the alternative, you claim that the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you note that the Act does not apply to records of the judiciary. Gov't Code § 552.003(B). You claim that the submitted information relates to judicial proceedings. You state that the submitted information is related to information deposited into the registry of the 79th Judicial District Court concurrent with an application for appointment of a receiver. You assert that the district clerk was acting as an agent of the judiciary by maintaining this information that is relevant to litigation that was pending with the court. Upon review of your arguments and the submitted information, we agree that the information at issue consists of records held by the district clerk as an agent of the judiciary. Records of the judiciary are not subject to required public disclosure under the Act.¹ See Gov't Code §§ 552.003(1)(A), (B) (definition of "governmental body" under Act specifically

¹Records of the judiciary may be public pursuant to other sources of law. Attorney General Opinions DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); see *Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released).

excludes the judiciary), .021 (Act generally requires disclosure of information maintained by “governmental body”). We therefore conclude the district clerk need not release the submitted information in response to the present request. We note that “[a]ccess to information collected, assembled, or maintained . . . for the judiciary is governed by rules adopted by the Supreme Court of Texas. *Id.* § 552.0035(a); *see* Tex. R. Jud. Admin. 12.²

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.

²As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information.

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 that reads "Jordan Johnson". The signature is written in a cursive, flowing style.

Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 289399

Enc. Submitted documents

c: Ms. Nicole D. Perez
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c/o Myra K. Morris
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