



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 9, 2007

Mr. Adam Wright  
Executive Director  
North Texas Regional Library System, Inc.  
6320 Southwest Boulevard, Suite 101  
Fort Worth, Texas 76109

OR2007-13119

Dear Mr. Wright:

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# 291702.

The North Texas Regional Library System, Inc. (the "system") received a request for bids submitted in response to a request for proposal for print materials. You take no position with respect to the public availability of the information that you have submitted. You believe, however, that release of this information may implicate the interests of interested third parties. You indicate that all of the interested third parties were notified of the system's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released to the requestor. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we address the system's obligations under section 552.301 of the Government Code. This section prescribes procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Section 552.301(b) requires the governmental body to ask for the attorney general's decision and state the exceptions to disclosure that it claims not later than the tenth business day after the date of its receipt of the written request for information. *See Gov't Code § 552.301(b)*. Section 552.301(e) requires the governmental body to submit to the attorney general, not later than the fifteenth business day after the date of its receipt of the request, (1) written comments stating why the governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the written request for information; (3) a signed

statement of the date on which the governmental body received the request, or evidence sufficient to establish that date; and (4) the specific information that the governmental body seeks to withhold or representative samples of the information if it is voluminous. *See id.* § 552.301(e)(1)(A)-(D). If a governmental body fails to comply with section 552.301, the requested information is presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ).

The system did not request this decision within the ten-business-day period prescribed by section 552.301(b). The system also failed to timely comply with section 552.301(e). The submitted information is therefore presumed to be public under section 552.302. This statutory presumption can generally be overcome when the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982), 150 (1977). A third party's interest can provide a compelling reason to overcome the presumption of openness.

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from any of the interested third parties. Therefore, there has been no demonstration that any of the submitted information is confidential or proprietary for the purposes of the Act. *See* Gov't Code §§ 552.101, .110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Therefore, the submitted information is not excepted from disclosure and 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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/mcf

Ref: ID# 291702

Enc. Submitted documents

c: Ms. Tammy Crooks  
Baker & Taylor  
2550 West Tyvola Road  
Charlotte, North Carolina 28217  
(w/o enclosures)

Mr. Kelvin Watson  
Borders Inc.  
100 Phoenix Drive  
Ann Arbor, Michigan 48107-7069  
(w/o enclosures)

Mr. Bob Sibert  
Bound to Stay Bound Books, Inc.  
1880 West Morton  
Jacksonville, Illinois 62650-2697  
(w/o enclosures)

Ms. Linda Eckman  
Brodart Co.  
500 Arch Street  
Williamsport, Pennsylvania 17701  
(w/o enclosures)

Mr. Jay Blint  
Book Wholesalers, Inc.  
1847 Mercer Road  
Lexington, Kentucky 40511  
(w/o enclosures)

Ms. Kathy Santistevan  
Continental Book Co., Inc.  
625 East 70<sup>th</sup> Avenue #5  
Denver, Colorado 80229  
(w/o enclosures)

Ms. Susan Perry  
Davidson Titles, Inc.  
P.O. Box 3538  
Jackson, Tennessee 38303-3538  
(w/o enclosures)

Ms. Ellen VanderMolen  
Emery-Pratt Co.  
1966 West Main Street  
Owosso, Michigan 48867-1397  
(w/o enclosures)

Mr. Patrick McElhiney  
Ingram Library Services Inc.  
P.O. Box 3006  
La Vergne, Tennessee 38086-1986  
(w/o enclosures)

Ms. Annie Harrell  
The Penworthy Co.  
219 North Milwaukee Street  
Milwaukee, Wisconsin 53202  
(w/o enclosures)

Ms. Nancy Schmaljohn  
Perma-Bound Books  
617 East Vandalia Road  
Jacksonville, Illinois 62650-3599  
(w/o enclosures)

Ms. Pat Snapp  
Quality Books, Inc.  
1003 West Pines Road  
Oregon, Illinois 61061  
(w/o enclosures)

Mr. Joshua Zucker  
Regent Book Co.  
PO Box 750  
Lodi, New Jersey 07644-0750  
(w/o enclosures)

Ms. Sarah Reece  
Tandem Library Group  
7900 Xerxes Avenue South, Suite 600  
Minneapolis, Minnesota 55431  
(w/o enclosures)

Mr. Joseph Martoia  
Thomson Gale  
27500 Drake Road  
Farmington Hills, Michigan 48331-3535  
(w/o enclosures)