



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 10, 2007

Mr. Ron G. McFarlane  
Attorney at Law  
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3131 Turtle Creek Boulevard, Suite 1201  
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OR2007-16267

Dear Mr. McFarlane:

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# 296805.

The City of Cedar Hill (the "city"), which you represent, received a request for all ballots for the 2006 and 2007 elections for board members of the city's Public Improvement District No. 1 ("PID"). You claim that the requested information is not subject to the Act. We have considered your arguments.

The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Government Code provides that "public information" consists of

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.

*Id.* § 552.002(a). Thus, virtually all information that is in a governmental body's physical possession constitutes public information. *Id.* § 552.002(a)(1); *see also* Open Records

Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You state that the city does not conduct elections for the PID. You also state that the city does not collect or maintain the election ballots and that the city does not have a right of access to the election ballots. You further state, and provide documentation supporting, that the PID board administers and operates the PID and that the PID holds elections to nominate its board. Based on your representations, we find that the requested information was not collected, assembled, or maintained in connection with the transaction of official business by the city. Gov't Code § 552.002(a). Therefore, we conclude that none of the requested information need be released in response to this request for 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Loan Hong-Turney  
Assistant Attorney General  
Open Records Division

LH/eeg

Ref: ID# 296805

Enc. Submitted documents

c: Mr. Edgar Linzy  
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