



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 11, 2008

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2008-00619

Dear Ms. Chang:

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# 299448.

The City of Houston (the "city") received a request for eighteen categories of information related to inspection reports, policies, leases, and city correspondence pertaining to a named apartment complex and other apartment complexes inspected by the city's Department of Housing and Community Development (the "housing department"). You state the housing department will provide most of the requested information to the requestor. You claim that portions of the remaining information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes. The city argues that federal law requires it to keep confidential information that relates to recipients of Housing Opportunities for Persons with AIDS ("HOPWA") grant money. The stated purpose of HOPWA is "to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome and families of such persons." 42 U.S.C. § 12901. Section 12905(e) of chapter 42 of the United States Code requires that the

city “agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this chapter *and any other information regarding individuals receiving such assistance.*” *Id.* § 12905(e) (emphasis added); *see also* 24 C.F.R. § 574.440. We believe that the intent of this confidentiality provision is to keep confidential information that would tend to identify individual patients with AIDS and thereby prevent housing discrimination against such individuals.¹

We understand that the recipients of the HOPWA grants at issue are apartment complexes and other residences. We take from this representation that none of the recipients is actually an individual dealing with AIDS; rather, the recipients of the grant monies provide housing assistance to persons with AIDS and their families. The question we must address is whether the identity and address of an apartment complex or residence receiving HOPWA grant monies from the city constitutes “information regarding individuals receiving such assistance.”

Our office has been provided with a letter written in September 2005 by Ms. Katie S. Worsham, Director with the U.S. Department of Housing and Urban Development (“HUD”). HUD states that the “publication of an address receiving HOPWA assistance does not bre[a]ch the confidentiality provision of 24 CFR 574.440 because that section only obligates HUD and grantees to keep names of clients confidential.” The identities and addresses of the apartment complexes and other residences at issue here do not identify the names of actual clients with AIDS who receive assistance. Accordingly, based on HUD’s representation and our review of the submitted information, we find that the names and addresses of the apartment complexes and other residences receiving HOPWA grants are not confidential under section 12905 of chapter 42 of the United States Code. Thus, none of the information at issue may be withheld on this basis. As you have not raised any further exceptions to disclosure, the submitted information 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

¹ *See generally Housing Needs of Persons With Acquired Immune Deficiency Syndrome (AIDS): Hearings before the Subcomm. on Housing and Community Development of the House Banking, Finance, and Urban Affairs Comm.*, 101st Cong. (1990) (hearing devoted to housing problems of persons with AIDS, their causes, such as discrimination, and their remedies); *see also National Housing Policy Conference and Public Hearing: Hearings before the Subcomm. on Housing and Urban Affairs, Senate Banking, Housing, and Urban Affairs Comm. and the Subcomm. on Housing and Community Development, House Banking, Finance, and Urban Affairs Comm.*, 100th Cong. p. 154 (1988).

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).

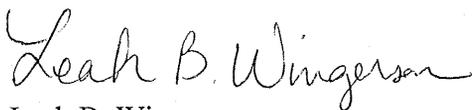
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/ma

Ref: ID# 299448

Enc. Submitted documents

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(w/o enclosures)