



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 10, 2008

Ms. Melanie Barton
Assistant District Attorney
Dallas County District Attorney
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2008-04839

Dear Ms. Barton:

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# 307155.

The Dallas County District Attorney (the "district attorney") received a request for the bond of a named probate court judge. On behalf of the named judge, you claim that the submitted surety bond is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the Act only applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). We also note that the Act does not apply to records of the judiciary. *See id.* § 552.003(1)(B). A probate court judge is a member of the judiciary. Information that is "collected, assembled or maintained by or for the judiciary" is not subject to the Act. *Id.* § 552.0035(a); *see also* Tex. Sup. Ct. R. 12. Consequently, records of the judiciary need not be released under the Act. *See* Attorney General Opinion DM-166 (1992). *But see Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ); Open Records Decision No. 646 (1996) at 4 ("function that a governmental entity performs determines whether the entity falls within the judiciary exception to the . . . Act."). You indicate that the Dallas County District Clerk maintains the submitted surety bond on behalf of the named county probate judge. Accordingly, we conclude that the submitted bond is collected, assembled, or maintained by or for the judiciary. Consequently, the public

availability of this information is not governed by the Act and is instead governed by "rules adopted by the Supreme Court of Texas or by other applicable law and rules" pertaining to information "collected, assembled, or maintained by or for the judiciary." See Gov't Code § 552.0035(a), Open Records Decision No. 671 (1992). Because our ruling is dispositive, we need not address your argument against disclosure.

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).

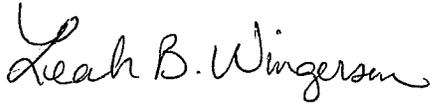
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/ma

Ref: ID# 307155

Enc. Submitted documents

c: Mr. Samuel R. Gross
P.O. Box 381729
Duncanville, Texas 75138
(w/o enclosures)