



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 28, 2008

Mr. Joseph J. Gorfida, Jr.  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2008-11839

Dear Mr. Gorfida:

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# 320091.

The City of Sachse (the "city"), which you represent, received a request for information pertaining to a specified incident. You appear to have released some of the submitted information, but claim that the requested information is excepted from disclosure under sections 552.103 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us that the submitted information pertains to internal investigations of the incident at issue that resulted in the termination of two officers. Under section 552.022(a)(1) of the Government Code, a completed report, audit, evaluation, or investigation made of, for, or by a governmental body is expressly public unless it either is excepted under section 552.108 of the Government Code or is expressly confidential under other law. Thus, because the submitted information consists of completed internal affairs investigations, this information is subject to section 552.022(a)(1). Although you assert this information is excepted under sections 552.103 and 552.111 of the Government Code, these sections are discretionary exceptions under the Act and do not constitute "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 677 at 10 (2002) (section 552.111 may be waived), 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived); *see also* Open Records

Decision No. 522 (1989) (discretionary exceptions in general). Accordingly, the city may not withhold the submitted reports under section 552.103 or 552.111.

We note that the submitted video recordings, radio and interview recordings, and photographs contain Texas license plate numbers. Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Most of the Texas license plate numbers in the submitted information pertain to the requestor's client; thus, the requestor has a right of access to her client's information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987). However, pursuant to section 552.130 the city must withhold the Texas license plate numbers to which the requestor does not have a right of access under section 552.023. We note that if the city is unable to redact the portions of the submitted video recordings that reveal Texas motor vehicle record information, then the city must withhold the video recordings in their entirety pursuant to section 552.130. *See* Open Records Decision No. 364 (1983).

To conclude, the city must withhold the Texas license plate numbers in the submitted information pursuant to section 552.130 of the Government Code, except for the information to which the requestor has a right of access under section 552.023 of the Government Code. The city must release the remaining information pursuant to section 552.022 of the Government Code.

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). If the governmental body does not file suit over 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

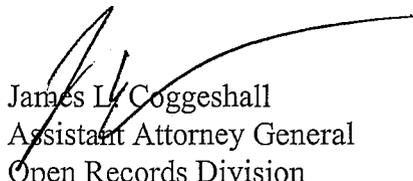
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jh

Ref: ID# 320091

Enc. Submitted documents

c: Ms. Mirna Hernandez  
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(w/o enclosures)