



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2009

Mr. Sands L. Stiefer
Chief Deputy and General Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2009-00101

Dear Mr. Stiefer:

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# 331450.

The Harris County Appraisal District (the "district") received a request for notes, documentation and computer code relating to the selection, adjustment and calculation of seven categories of data. You state that some of the requested information either has been or will be released. You claim that the submitted materials are not public information that is subject to disclosure under the Act. You also believe that some of the submitted materials implicate the proprietary interests of Software Techniques, Inc. ("STI"). You notified STI of this request for those materials and of its right to submit arguments to this office as to why they should not be released.¹ We received correspondence from STI. We have considered all of the submitted arguments and reviewed the submitted materials.²

¹See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

²This letter ruling assumes that the submitted representative samples are truly representative of the responsive materials as a whole. This ruling neither reaches nor authorizes the district to withhold any materials that are substantially different from the submitted materials. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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.

Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information that is made public under section 552.021. See ORD 581 at 6 (construing predecessor statute). You state that the submitted materials consist of computer code and tables. You explain that these materials exist solely as tools for the selection, storage, manipulation and publication of data used by the district in protest hearings. Based on your representations and our review of the submitted materials, we conclude that these materials are not public information, as defined by section 552.002 of the Government Code, and thus are not subject to disclosure under the Act. Therefore, the district need not release any of the submitted materials in response to this request for information. As we are able to make this determination, we need not address your other arguments or those that we received from STI.

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

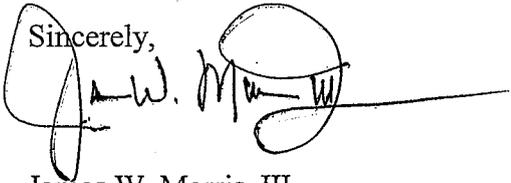
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor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

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 331450

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Mr. Lawrence Zirbel
Software Techniques, Inc.
1250 Minnesota Avenue
Winter Park, Florida 32789
(w/o enclosures)