



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 12, 2009

Mr. Leonard V. Schneider  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2009-03234

Dear Mr. Schneider:

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# 337916.

The City of Seabrook (the "city"), which you represent, received two requests for (1) the number of retroactive building permits the city issued during a particular time period for projects initiated without a proper permit, (2) the number of unpermitted building structures the city required to be removed or demolished during a particular time period, (3) the number of unpermitted building structures the city required to be removed or demolished that the builder subsequently applied for a retroactive building permit and the city then rejected during a particular time period, (4) whether a particular structure is on city property and if so what the city intends to do to resolve the situation, and (5) whether a particular person's property is on city property and if so what the city intends to do to resolve the situation.<sup>1</sup> You claim the city is not required to answer factual questions under the Act. We have considered your argument.

You assert the requests require the city to answer questions and are not proper requests under the Act. We agree the Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). Likewise, the Act does not require a governmental body to take affirmative steps to create or obtain responsive information that is not in its possession, so long as no other individual or entity holds such information on behalf of the governmental body that received the request for information.

---

<sup>1</sup>We understand the city received clarification from the requestor. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

*See* Gov't Code § 552.002(a); Open Records Decision Nos. 534 at 2-3 (1989), 518 at 3 (1989). Nevertheless, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990).

In this instance, we agree parts 4 and 5 of the request are factual questions, and not proper requests under the Act. However, parts 1-3 of the present request are not general inquiries and should enable the city to identify information in its possession that may be responsive to the request. For example, any building permits the city issued that meet the criteria in item 1 would be responsive to this requested item. Therefore, to the extent any information exists that is responsive to parts 1-3 of the present request, the city must release it. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000) (concluding section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances).

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/eeg

Ref: ID# 337916

Enc. Submitted documents

c: Requestor  
(w/o enclosures)