



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 27, 2009

Ms. Karen Matkin  
District Clerk  
McLennan County  
P.O. Box 2451  
Waco, Texas 76703

OR2009-05539

Dear Ms. Matkin:

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# 341134.

The McLennan County District Clerk (the "clerk") received a request for six categories of information pertaining to outstanding monies, unclaimed funds, and uncashed checks in the possession of the clerk. You state that some responsive records will be released. You also state that the clerk has no information that is responsive to portions of the request.<sup>1</sup> You claim that the information in the possession of the clerk, a sample of which you have submitted as Exhibit B, is not subject to the Act. We have considered your argument and reviewed the submitted information.<sup>2</sup>

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App. — San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The Act 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). However, a "governmental body" under the Act "does not include the judiciary." *Id.* § 552.003(1)(B). Information that is "collected, assembled or maintained by . . . the judiciary" is not subject to the Act but is instead "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035). In this instance, you explain that Exhibit B is maintained by the clerk as an agent of the judiciary. *See* Open Records Decision No. 646 (1996) (function governmental entity performs determines whether it falls within judiciary exception to the Act); *see also* Open Records Decision No. 236 (1980). Based on this representation, we find that Exhibit B is not subject to the Act and need not be released to the requestor.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 341134

Enc. Submitted documents

c: Requestor  
(w/o enclosures)