



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 9, 2009

Ms. Alice Holloway
City Secretary
City of Wilmer
128 North Dallas Avenue
Wilmer, Texas 75172

OR2009-07877

Dear Ms. Holloway:

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# 345613.

The City of Wilmer (the "city") received a request for the city's financial records from the past two months. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that an interested party may submit comments stating why information should or should not be released).

We note that the purpose of the Act is to prescribe conditions under which members of the general public can obtain information from a governmental body. *See* Attorney General Opinion JM-119 (1983) (statutory predecessor). An official of a governmental body who, in an official capacity, requests information held by the governmental body does not act as

¹We 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.

a member of the public in doing so. Thus, exceptions to public disclosure under the Act do not control the right of access of an official of a governmental body to information maintained by the governmental body. *See id.* at 3 (member of community college district board of trustees, acting in official capacity, has an inherent right of access to information maintained by district). In this instance, the requestor is a member of the Wilmer City Council. He represents to this office he is requesting the city's financial records "because the Mayor is wanting to change the budget" and indicates he is acting in his official capacity in requesting the records at issue. Based on the requestor's representations and our review, he is seeking the information in his official capacity, and therefore has an inherent right of access to the information and it must be provided to him. The release of this information in this specific instance does not constitute a release to the general public and, as such, the city waives none of the possible exceptions to the disclosure of this information. *See* Open Records Decision No. 666 at 4 (2000) (municipality's disclosure to a municipally-appointed citizen advisory board does not constitute a release to the public as contemplated under section 552.007 of the Government Code). Because the release of this information to a member of the city council is not a release to the public, the requestor must be cautious in maintaining the documents in the same manner as they are maintained by the city.² *See generally* Gov't Code § 552.352 (criminal penalties imposed for release of confidential information).

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, 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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

²As our ruling is dispositive, we need not address the city's arguments against disclosure.

Ref: ID# 345613

Enc. Submitted documents

cc: Requestor
(w/o enclosures)