



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2012

Mr. Russell W. Malm
Midland County Attorney
County of Midland
500 North Loraine, Suite 1101
Midland, Texas 79701

OR2012-17655

Dear Mr. Malm:

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# 471877.

The Justice of the Peace for Midland County Justice Court, Precinct 2 (the "court") received a request for four specified categories of information regarding a named law firm and a named company. You state some of the requested information has been released but claim the submitted information is excepted from disclosure under section 552.107 of the Government Code.¹ You also state you notified the named law firm of the court's receipt of the request for information and of the law firm's right to submit arguments to this office as to why the requested information should not be released to the requestor. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information. We have also considered

¹You raise section 552.101 of the Government Code in conjunction with section 552.107 of the Government Code and the attorney-client privilege in Texas Rule of Evidence 503. However, the exceptions in the Act are not law that makes information confidential for purposes of section 552.101. In addition, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Further, although you assert the attorney-client privilege under Texas Rule of Evidence 503, we note none of the information for which you claim this privilege is subject to section 552.022 of the Government Code. Therefore, section 552.107 of the Government Code is the proper exception to raise for your attorney-client privilege claim.

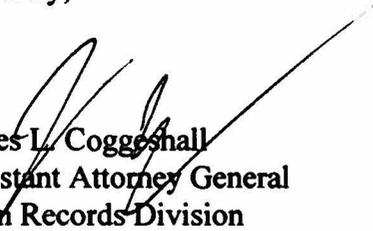
comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

A justice of the peace is a member of the judiciary. Section 552.003(b) of the Government Code excludes the judiciary from the Act. Therefore, the Act neither authorizes information held by the judiciary to be withheld nor requires it be disclosed. *See* Open Records Decision No. 25 (1974). Accordingly, the requested information is not subject to public disclosure under the Act, and the Open Records Division does not have the authority to rule on records maintained by the judiciary. Gov't Code § 552.0035 (access to information maintained by or for judiciary is governed by rules adopted by supreme court); *see* TEX. R. JUD. ADMIN. 12 (public access to judicial records). Thus, we conclude the submitted information is not subject to the Act and the court is not required to release it in response to this request for information.² As we are able to make this determination, we do not address your arguments against its disclosure under the Act.

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, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

²We note records of the judiciary may be public under other sources of law. *See* Gov't Code §§ 29.007(d)(4) (complaints filed with municipal court clerk), .007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); *see also* *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released); Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974).

Ref: ID# 471877

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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