



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 12, 2013

Mr. Robert S. Davis  
Counsel for Harrison County  
Flowers Davis, P.L.L.C.  
1021 ESE Loop 323, Suite 200  
Tyler, Texas 75701

OR2013-11918

Dear Mr. Davis:

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# 493301.

Harrison County (the "county"), which you represent, received a request for the settlement agreement in case number 2:11-cv-00088. You claim the submitted information is excepted from disclosure under section 552.107(2) of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in pertinent part, as follows:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are

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<sup>1</sup>Although you do not explicitly raise section 552.107(2) of the Government Code in your brief, based on your argument regarding an order sealing the requested information, we understand you to raise this exception.

public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record; and

(18) a settlement agreement to which a governmental body is a party.

Gov't Code § 552.022(a)(17), (18). The submitted information consists of a court-filed document subject to subsection 552.022(a)(17) and a settlement agreement, to which the county is a party, subject to subsection 552.022(a)(18). You raise section 552.107(2) of the Government Code for this information. Section 552.107(2) allows a governmental body to withhold information if "a court by order has prohibited disclosure of the information." *Id.* § 552.107(2). You have submitted an order issued by the presiding judge in the United States District Court, Eastern District, Marshall Division, sealing the requested information after the county received the request. However, section 552.022(b) provides that a court may not order a governmental body to withhold from public inspection any category of information described by section (a) unless the category of information is expressly made confidential under the Act or other law. *Id.* § 552.022(b); *see also Ford v. City of Huntsville*, No. 00-20293, 2001 WL 85866, at \*4 (5th Cir. Jan. 22, 2001) (not designated for publication). We note section 552.022(b) means what it says without exception, and the presiding judge does not have the discretion to prohibit the release of the information at issue once the information at issue falls within a category of information described by section 552.022(a). *Cf. Houston Chronicle Publ'g Co. v. Edwards*, 956 S.W.2d 813, 817 (Tex. App.—Beaumont 1997, orig. proceeding) (court has no inherent power to ignore express statutory provision that makes information public); *Houston Chronicle Publ'g Co. v. Woods*, 949 S.W.2d 492, 499 (Tex. App.—Beaumont 1997, orig. proceeding) (court may not seal search warrant affidavit that statute expressly provided is public). Because section 552.022(b) prohibits a court from ordering the withholding of documents subject to section 552.022, we conclude the county may not withhold the information at issue under section 552.107(2). As you make no other arguments against disclosure, the submitted information must be released.

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.texasattorneygeneral.gov/open/>

[orl\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Ni A. Ybarra". The signature is fluid and cursive.

Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

Ref: ID# 493301

Enc. Submitted documents

c: Requestor  
(w/o enclosures)