



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 27, 1996

Mr. Riley J. Simpson
City Attorney
City of Copperas Cove
P. O. Drawer 1449
Copperas, Cove Texas 76522

OR96-2460

Dear Mr. Riley:

You have asked whether certain information is excepted from required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102734.

The City of Copperas Cove (the "city") received a request for (1) the job description and requirements for the position of city planner, and (2) the resume, education and work history of the current city planner. You state that the city is not denying access to the education and work history information. However, you assert that the requested resume is excepted from required public disclosure under section 552.102 of the Government Code.¹

Section 552.102(a) is designed to protect public employees' personal privacy. The scope of section 552.102(a) protection, however, is very narrow. *See* Open Records Decision No. 336 (1982); *see also* Attorney General Opinion JM-36 (1983). The test for section 552.102(a) protection of common-law privacy is the same as that for section 552.101: the information must contain highly intimate and embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d. 546,550 (Tex. App.--Austin 1983, writ ref'd n.r.e.). The information at issue pertains solely to the resume of a particular employee. As the information you seek to withhold does not concern intimate aspects of an individual's private affairs, the city may not withhold the information at issue pursuant to common-law privacy.

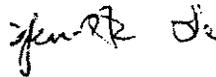
¹You do not object to nor raise an exception to the request for the job description and requirements for the position of city planner. Thus, we presume that this information is public. Gov't Code § 552.303(e).

We note that the file contains information relating to the home address and home telephone number of a city employee. Section 552.117 requires that this information be kept confidential if an official, employee, or former employee requested that this information be kept confidential under the procedures outlined in section 552.024. See Open Records Decision No. 622 (1994), 455 (1987). In this instance, we cannot determine whether this city employee elected to deny public access to his home address and home telephone number. Thus, if this particular city employee did not elect to deny access to his home address and home telephone number, the city must release the information.

We also note that in order for the information to be confidential, the employee must make the election under § 552.024 prior to when the request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/SAB/rho

Ref.: ID# 102734

Enclosures: Submitted documents

cc.: Mr. Roy E. Lehmann
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Port Lavaca, Texas 77979
(w/o enclosures)