



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 8, 1998

Ms. Paige D. Scherr
Hayes, Coffey & Berry
1710 Westminster
Denton, Texas 76206

OR98-2996

Dear Ms. Scherr:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120188.

The Town of Hickory (the "town"), which you represent, received a request for the employment application and Texas Peace Officer License Application of a particular town employee. You explain that most of the requested information has been released. You contend, however, that some of the information contained in the requested documents is excepted from disclosure pursuant to sections 552.102 and 552.117 of the Government Code. We have considered the exceptions you claim and have reviewed the information at issue.

Section 552.117(2) of the Government Code excepts from disclosure a peace officer's home address, home telephone number, social security number, and information that reveals whether the officer has family members. Additionally, we have ruled that section 552.117 protects former home addresses and telephone numbers from disclosure. *See* Open Records Decision No. 622 (1994). We have marked the information in the requested documents that is excepted from disclosure pursuant to section 552.117(2).¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹We note that the peace officer's social security number may also be excepted from disclosure under section 552.101 of the Government Code as information deemed confidential by federal law. If a governmental body obtains or maintains a social security number pursuant to a provision of law enacted on or after October 1, 1990, the social security number is confidential pursuant to section 405(c)(2)(C)(viii) of title 42 of the United States Code.

Section 552.102 of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102 excepts information in personnel files only if it meets the test articulated under section 552.101 for common-law invasion of privacy. *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

For information to be protected from public disclosure by the common-law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. We note that the public has a legitimate interest in the job qualifications of public employees, and, therefore, information relating to a public employee's qualifications is generally not protected by the common-law right to privacy. Open Records Decision Nos. 470 (1987), 467 (1987).

The submitted documents do contain some highly intimate and embarrassing information in which the public has no legitimate interest. We have marked this information accordingly. The town must withhold this information from disclosure under sections 552.101 and 552.102 in conjunction with the common-law right to privacy.

Finally, we note that the submitted documents contain information excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

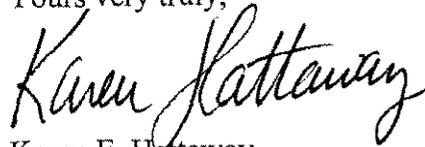
We have marked the information that is protected by section 552.130.

Only the information that we have marked as protected under sections 552.101, 552.102, 552.117, and 552.130 may be withheld. The town must release all unmarked information to the requestor.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 120188

Enclosures: Marked documents

cc: Mr. Phillip Robertson
624 W. University, #183
Denton, Texas 76201
(w/o enclosures)