



February 23, 2000

Mr. J. Greg Hudson  
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.  
1700 Frost Bank Plaza  
816 Congress Avenue  
Austin, Texas 78701-2443

OR2000-0647

Dear Mr. Hudson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132379.

Collin County (the “county”), which you represent, received a request for names of bonding or insurance companies, amounts of insurance, and addresses for certain named county officers.<sup>1</sup> The requestor also requested the list of assets of the named county officials. You assert that the information which is not excepted from disclosure will be released to the requestor. You claim that a portion of the requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the representative sample of documents.<sup>2</sup>

You have submitted to this office representative samples of personal financial statements for the named county officers. Chapter 159 of the Local Government Code deals with financial disclosure by county officers. Subchapter A applies to a county with a population of 100,000 or more and Subchapter B applies to a county with a population of 125,000 or more. Local Gov’t Code §§ 159.001, .031. Because Collin County has a population of 125,000 or more, Subchapters A and B of Chapter 159 of the Local Government Code apply to the county.

Subchapter A applies to a “county officer” which includes a county judge, county commissioner, or county attorney. Local Gov’t Code § 159.002. Section 159.003 of

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<sup>1</sup>The requestor seeks information concerning the county auditor, county clerk, district attorney, county judge, sheriff and the four county commissioners.

<sup>2</sup>In reaching our conclusion here, we 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.

Subchapter A provides that a county officer or candidate for county office must file a financial statement with the county clerk that complies with sections 572.022 and 572.023 of the Government Code.<sup>3</sup> You acknowledge that section 159.007 of the Local Government Code provides that financial statements filed under Subchapter A are public records.<sup>4</sup> Section 159.007 provides the following:

(a) Financial statements filed under this subchapter are public records. The county clerk shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.

(b) During the one-year period following the date of filing of a financial statement, each time a person, other than the county clerk or an employee of the county clerk who is acting on official business, requests to see the financial statement, the county clerk shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk shall retain that statement in the file for one year after the date the requested financial statement is filed.

(c) The county clerk may, and on notification from a former officer or candidate shall, destroy any financial statements filed by the officer or candidate two years after the date the person ceases to be an officer or candidate, as applicable.

You assert that information in the personal financial statements should be excepted from disclosure under section 552.117 of the Government Code. Section 552.117(1) excepts from disclosure information that relates to the home addresses, home telephone numbers, and social security numbers of employees and officials of a governmental body who request that this information remain confidential under section 552.024. Section 552.117(1) also excepts

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<sup>3</sup>Section 572.022 of the Government Code provides reporting categories. Section 572.023 of the Government Code provides that the financial statements must contain an account of financial activity of the individual as well as the activity of the individual's spouse and dependent children if the individual had actual control over the activity. Gov't Code § 572.023(a). Section 572.023(b) lists information that is to be included in the account of financial activity.

<sup>4</sup>Undoubtedly, there is a significant public interest in the requested information because the financial statements provide information about potential conflicts of interest between the county officer's personal financial investments, including investments of the officer's spouse and dependent children over which the officer has control, and the county's interests.

information that reveals whether an employee has family members.<sup>5</sup> However, the withholding of information under section 552.117 of the Government Code conflicts with the express language in section 159.007 providing that financial statements are public records. Because we are unable to harmonize the two statutes, we must look to the provisions dealing with conflicting statutes in the Code Construction Act. Gov't Code § 311.001. When reviewing conflicting statutes, the Code Construction Act provides that special or local provisions prevail over general provisions unless the general provision was enacted later than the special or local provision. Gov't Code § 311.026(b); *see also City of Dallas v. Mitchell* 870 S.W.2d 21, 22 (Tex. 1994). Because section 159.007 of the Local Government Code specifically applies to financial statements and was enacted after section 552.117, a statute that has a general application, we conclude that section 159.007 of the Local Government Code prevails over section 552.117 of the Government under the provisions of the Code Construction Act.

Further, the Public Information Act's (the "act") exceptions do not, as a general rule, apply to information made public by other statutes. *See Houston Chronicle Publ'g Co. v. Woods*, 949 S.W.2d 492, 498-9 (Tex. App.—Beaumont 1997, orig. proceeding) (search warrant affidavit which is "public information" if executed is open to disclosure without exception); *Houston Chronicle Publ'g Co. v. Edwards*, 956 S.W.2d 813 (Tex. App.—Beaumont 1997, orig. proceeding); Open Records Decision Nos. 525 at 3 (1989) (holding that the act's exceptions do not apply to information made public by the statutory predecessor to section 2001.004(3) of the Government Code), 146 at 2 (1976) (holding that former V.T.C.S. art. 6252-17a, section 3(a)(3) does not apply to election returns, applications for candidacy, and campaign expenditure reports made public by common law and statute), 43 at 2 (1974) (holding that former V.T.C.S. art. 6252-17a, section 3(a)(3) does not apply to traffic accident reports specifically made public by statute). Further, for compelling reasons of public policy, publicly-filed documents, such as municipal ordinances, deeds, and liens, cannot be withheld from disclosure even if they arguably fall within the scope of one of the exceptions to disclosure found in the act. *See Open Records Decision No. 551 at 2-3 (1990)*; *cf. Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992) (documents filed with the court are public documents and must generally be released); Open Records Decision No. 516 (1989) (governmental body may not invoke section 552.117 to withhold information when another governmental body is expressly authorized to obtain it). Because section 159.007 of the Local Government Code makes financial statements of county officers public, the exception from disclosure in section 552.117 of the Government Code does not apply to the financial statements. Thus, you must release the financial statements of the county judge, county commissioners, and the district attorney in their entirety.

By contrast, Subchapter B of Chapter 159 defines "county officer" as a sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, or county

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<sup>5</sup>We note that you have submitted section 552.024 election forms which reflect that the officials requested that section 552.117 information be withheld.

purchasing agent but does not include the county officers listed in Subchapter A. Local Gov't Code § 159.032(1). Section 159.033 allows the commissioners court of the county to adopt by order a financial disclosure reporting system for the county officers named above. Subchapter B does not include a provision, such as section 159.007, requiring public access to financial statements of county officers. Consequently, we find that section 552.117 of the Government Code would apply to information in financial statements of the Collin County auditor, county clerk, and the sheriff.

Section 552.117(1) of the Government Code excepts from disclosure information that relates to the home addresses, home telephone numbers, and social security numbers of officials and employees of a governmental body who request that this information remain confidential under section 552.024. Section 552.117(1) also excepts information that reveals whether an official or employee has family members. You have submitted to this office information that demonstrates that, prior to the date on which the county received the request for information, the county auditor and county clerk elected to keep their home addresses, home telephone numbers, social security numbers and family membership confidential. Thus, section 552.117 excepts these officials' home addresses, home telephone numbers, social security numbers, and family information from disclosure. We have marked information that must be withheld under section 552.117.<sup>6</sup>

Section 552.117(2) excepts from public disclosure a peace officer's home address, home telephone number, social security number, and information indicating whether the peace officer has family members regardless of whether the peace officer complied with section 552.024 of the Government Code. Thus, you must withhold the home address, home telephone number, social security number, and information regarding family membership in the financial statement of the sheriff under section 552.117(2) of the Government Code.

In summary, the financial statements of the district attorney, county judge, and county commissioners must be released in their entirety based on section 159.007 of the Local Government Code. However, you must withhold section 552.117 information in the financial statements of the county auditor, county clerk, and the sheriff.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

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<sup>6</sup>With regard to the officials covered by Subchapter B, you have only submitted the financial statement of the county clerk. Although you have highlighted section 552.117 information, we have marked additional information which reveals whether the official has family members.

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek  
Assistant Attorney General  
Open Records Division

JHB/ch

Ref: ID# 132379

Encl. Marked documents

cc: Mr. Herbert Charles Hart  
5317 Catamaran Drive  
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(w/o enclosures)