



April 13, 2000

Mr. Thomas G. Ricks  
President  
The University of Texas Investment Management Company  
210 West Sixth Street, Second Floor  
Austin, Texas 78701

OR2000-1475

Dear Mr. Ricks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135658.

The University of Texas Investment Management Company (“UTIMCO”) received a request for “all contact information, including email addresses” for Mr. Thomas Hicks. You have provided the requestor information that is responsive to the request. You assert that certain additional responsive information, the “home contact information” of Mr. Hicks, is excepted from public disclosure under section 552.117 of the Government Code.<sup>1</sup> We have reviewed information you have submitted and considered the exception you assert.

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<sup>1</sup>You did not provide this office the “home contact information” to which you refer. Among other information, section 552.301 of the Government Code requires that the governmental body provide this office, no later than the 15<sup>th</sup> business day after the date of receiving the request, a copy of the specific information requested, or representative samples of the information if a voluminous amount was requested. *See* Gov’t Code § 552.301(e)(1)(D). Pursuant to section 552.302 of the Government Code, a governmental body’s failure to submit to this office the information required in section 552.301 results in the legal presumption that the information is public and must be released. Gov’t Code § 552.302. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov’t Code § 552.302); Open Records Decision No. 319 (1982). A demonstration that the requested information is deemed confidential by law or implicates a third party’s interest is a compelling interest sufficient to negate this presumption. *See* Open Records Decision No. 150 (1977). Because a section 552.117 assertion implicates a third party’s interest, we address the section 552.117 assertion.

Section 552.117 of the Government Code, in relevant part, provides:

Information is excepted from the [public disclosure] requirements of Section 552.021 if it is information that relates to the home address, home telephone number, or social security number, or that reveals whether the following person has family members:

- (1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;
- (2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024[.]

Section 552.117(1) requires you to withhold information pertaining to a current or former employee or official who requested that this information be kept confidential under section 552.024. You explain that Mr. Hicks is a former member of the UTIMCO Board of Directors. Information may not be withheld under 552.117(1) if the current or former employee elected non-disclosure after this request for information was made. Open Records Decision No. 622 (1994). Exhibit 3 indicates that Mr. Hicks elected non-disclosure under section 552.024 prior to the present request for information. You must therefore withhold the home address, home telephone number, and social security number of Mr. Hicks, as well as any information that reveals whether Mr. Hicks has family members.

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.

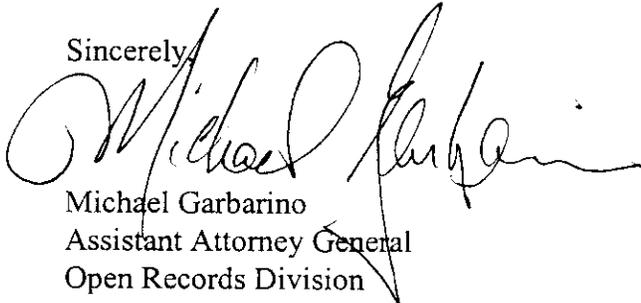
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge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



Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/ch

Ref: ID# 135658

cc: Mr. Stephen Lisson  
INITIATE!  
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