OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

July 10, 2003

Ms. Melissa L. Barloco
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2003-4760

Dear Ms. Barloco:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 186955.

The Harris County Tax Assessor-Collector (the "tax assessor") received a request for the assessments of certain properties and the oaths of office and bonds for certain officials. You claim that a social security number is protected under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

First, the tax assessor explains that there are no responsive assessments because they are performed by the Harris County Appraisal District. The Public Information Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986). Furthermore, a governmental body is not required to obtain information from another entity so long as the entity does not hold the information on behalf of the governmental body. Open Records Decision No. 534 (1989).

Second, the tax assessor also contends that part of the request asks the tax assessor to answer legal questions and that the tax assessor is, therefore, not obligated to respond to that portion of the request. In Open Records Decision No. 563 (1990), the requestor sought documents showing the authority of a non-profit corporation to engage in various activities. We ruled as follows:

> While couched as requests for documents, these are essentially requests for federal and state laws and regulations governing the activities of the corporation and for a statement of the corporation's interpretation of these

> provisions. The Open Records Act does not require a governmental body to perform legal research for a requestor nor to answer general questions.

Id. at 8. We agree the tax assessor is not required to answer factual questions or perform legal research.

Lastly, the tax assessor explains that there are no oaths of office or bonds filed by the Harris County Chief Appraiser, the Houston I.S.D. Assessor, and the Assessor of Midtown Management. You have submitted the oath of office and bond filed by the tax assessor. You assert the submitted social security number found in the bond is confidential. Section 552.117 excepts from disclosure the social security number of a current official who requests that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the tax assessor may only withhold the social security number under section 552.117 if the official made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. The tax assessor may not withhold this information under section 552.117 for if the official did not make a timely election to keep the information confidential.

We note that a social security number is also excepted from required public disclosure under section 552.101 of the act in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994).

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

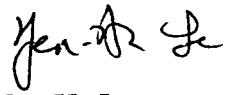
records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal limits. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 186955

Enc: Submitted documents

c: Mr. Michael F. Palma
c/o 5026 Autumn Forest Drive
Houston, Texas 77091
(w/o enclosures)