



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 2, 2004

Ms. Laura Shackelford
Assistant General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

OR2004-0729

Dear Ms. Shackelford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 196575.

The State Bar of Texas (the "State Bar") received a request for "all the job applications and related documents submitted for the position of Auditor, job posting number 04-034-1000." You state that you provided the requestor with all responsive documents, with the exception of the information you are asking to withhold. You claim that some of the submitted information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.117 excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024.¹ 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 State Bar may only withhold information under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this

¹In Senate Bill 1388, which became effective on June 20, 2003, the Seventy-eighth Legislature amended section 552.117 of the Government Code by adding "(a)" to the relevant language of this provision. *See* Act of May 30, 2003, 78th Leg., R.S., ch. 947, 2003 Tex. Sess. Law Serv. 2822 (Vernon) (to be codified as an amendment to Gov't Code § 552.117).

information was made. For employees who timely elect to keep their personal information confidential, the State Bar must withhold the employees' home addresses and telephone numbers, social security numbers, and any information that reveals whether these employees have family members. The State Bar may not withhold this information under section 552.117 for employees who did not make a timely election to keep the information confidential. You state that prior to the request for information, "the employee indicated in his Public Access Option Form that he did not consent to the release of his home address, home telephone number, Social Security Number or family member information." Based upon this representation, we agree that the information you have marked must be withheld from disclosure under section 552.117 of the Government Code.

Finally, you request that this office issue a previous determination allowing the State Bar to withhold information under section 552.117 for its employees. We note that the information at issue in this file does not include family member information. After considering your request, we have decided that this letter ruling shall serve as a previous determination under section 552.301(a) that the home addresses and telephone numbers and social security numbers of the State Bar's current or former officials or employees who timely elect confidentiality for this information under section 552.024 are excepted from disclosure under section 552.117 of the Government Code. *See Gov't Code § 552.301(a), (f); see also Open Records Decision No. 673 (2001).*

This previous determination applies only to the home addresses and telephone numbers and social security numbers of current or former employees who timely request that this information be kept confidential. *See Open Records Decision No. 673 at 7 (2001).* Moreover, so long as the elements of law, fact and circumstances do not change so as to no longer support the findings set forth above, the State Bar need not ask for a decision from this office again with respect to this type of information requested of the State Bar. *See id.*

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 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 amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission 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,



Melissa Vela-Martinez
Assistant Attorney General
Open Records Division

MVM/sdk

Ref: ID# 196575

Enc. Submitted documents

c: Ms. Gloria Villagran
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Austin, Texas 78751
(w/o enclosures)