



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2004

Ms. Lydia L. Perry
Law Offices of Robert E. Luna, PC
4411 N. Central Expressway
Dallas, Texas 75202

OR2004-5422

Dear Ms. Perry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 204471.

The Coppell Independent School District (the "district"), which you represent, received a request for information regarding a basketball coach and specified facilities agreements.¹ You claim that some of the responsive information is excepted from disclosure under sections 552.117, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

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 552.024.² 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). The district may only withhold information under section 552.117 on behalf of

¹ The district asserts that the responsive information regarding the coach has been released to the requestor, with the exception of "locker room notes from [the coach's] locker room monitor for the 2002-2003 boys' basketball season." The district indicates it has no information responsive to the request for "locker room notes."

² The former home addresses and telephone information of an employee of a governmental body who timely requests confidentiality under section 552.024 are also excepted from disclosure under section 552.117. *See* Open Records Decision No. 622 (1994).

current or former employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. In this instance, you state, but do not provide documentation showing, that certain employees requested confidentiality under section 552.024. If the employees timely elected confidentiality under section 552.024, the district must withhold the employees' highlighted home telephone numbers under section 552.117. If the employees did not timely elect confidentiality under section 552.024, this information must be released to the requestor.

You further claim that some of the submitted information is excepted from disclosure under 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[.]

Therefore, the district must also withhold the highlighted Texas driver's license numbers under section 552.130.

We next address your claim under section 552.137. As amended by the 78th Legislature, this section provides as follows:

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; or

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Gov't Code § 552.137. Section 552.137(a) is applicable to certain e-mail addresses of members of the public that are provided for the purpose of communicating electronically with a governmental body, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. Section 552.137(a) is not applicable to the types of e-mail addresses listed in section 552.137(c) or to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. Therefore, we agree that the marked e-mail addresses are confidential under section 552.137(a). The district must withhold all such e-mail addresses under section 552.137, unless the owner of a particular e-mail address has affirmatively consented to its public disclosure.

In summary, the district must withhold the highlighted home telephone numbers of district employees under section 552.117 if the employees timely elected confidentiality under section 552.024; the district must withhold the highlighted driver's license numbers under section 552.130; and the district must withhold the e-mail addresses of members of the public under section 552.137, unless the owner of the e-mail address has affirmatively consented to its public disclosure. The district must release all remaining information to the requestor.

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 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,



Marc A. Barenblat
Assistant Attorney General
Open Records Division

MAB/jh

Ref: ID# 204471

Enc: Submitted documents

c: Mr. Byron Harris
Senior Reporter
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(w/o enclosures)