



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 9, 2004

Ms. Charlotte L. Staples  
Taylor Olson Adkins Sralla & Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2004-9559

Dear Ms. Staples:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 213215.

The City of Granbury (the "city"), which you represent, received two requests from the same requestor for (1) copies of all correspondence between a specified law firm or individual to a named individual or insurance company during June, July, or August of 2004, (2) copies of all city-owned or city-paid cell phone records from February 1, 2002 through August 2004 for nine named individuals, and (3) copies of expense reports, reimbursements, expense statements, accounts, itemized travel reports, supporting documents, and "any and all items related in any way to expenses claimed by or reimbursed to" six named city employees. You state that the city does not have any documents responsive to the first request.<sup>1</sup> You also state that some responsive information is being released to the requestor. You claim that portions of the remaining requested information are excepted from disclosure under

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<sup>1</sup>We note that the Public Information Act (the "Act") does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request for information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983). A governmental body must make a good faith effort to relate a request for information to any responsive information that is within its custody or control. See Open Records Decision No. 561 at 8-9 (1990).

sections 552.117, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.117(a)(1) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who timely request that such information be kept confidential under section 552.024 of the Government Code. 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). You state, and provide documentation reflecting, that the employees whose information is at issue timely elected to not have their personal information released. Therefore, pursuant to section 552.117(a)(1), the city must withhold the information you have marked.

Section 552.130 of the Government Code prohibits the release of information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130. Accordingly, we agree that the city must withhold the information you have marked pursuant to section 552.130 of the Government Code.

Finally, section 552.136 of the Government Code excepts from disclosure certain account numbers and other "access device numbers." This section provides as follows:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

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<sup>2</sup>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.

Gov't Code § 552.136. We agree that most of the information you have marked pursuant to section 552.136 is confidential and must be withheld under that exception. We have marked a small amount of information which you have marked, but which does not constitute an "access device number," and must be released. We have also marked some additional information that must be withheld under section 552.136.

In summary, the city must withhold the information you have marked pursuant to sections 552.117 and 552.130. The city must also withhold all marked access device numbers within the submitted documents pursuant to section 552.136. The remaining information must be released.

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,



Sarah I. Swanson  
Assistant Attorney General  
Open Records Division

SIS/krl

Ref: ID# 213215

Enc. Submitted documents

c: Mr. Ken Landers  
800 Autumn Ridge Drive  
Granbury, Texas 76048  
(w/o enclosures)