



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 18, 2005

Mr. Joe Gorfida, Jr.
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2005-10446

Dear Mr. Gorfida:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 236899.

The City of Cedar Hill (the "city"), which you represent, received two requests for information from the same requestor, one related to a specific arrest and the other for the employment applications of certain employees. You state that you have released most of the requested information, but 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.

Initially, we note that the requestor, in his request for information, asks for the employment applications without social security numbers. Thus, the social security numbers are not responsive to the present request. Accordingly, we do not address your arguments for the social security numbers and they need not be released.

Turning to your claimed exception, section 552.117(a)(2) of the Government Code excepts from disclosure the current and former home addresses and home telephone numbers, social security numbers, and family member information of a peace officer regardless of whether the officer requested confidentiality under section 552.024 or 552.1175 of the Government Code.¹ We note that section 552.117 also encompasses a personal cellular telephone number, provided that the cellular phone service is not paid for by a governmental body. *See*

¹"Peace officer" is defined by Article 2.12 of the Texas Code of Criminal Procedure.

Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular mobile phone numbers paid for by governmental body and intended for official use). Personal pager numbers of peace officers are excepted under section 552.117(a)(2) as well. *See* Open Records Decision No. 670 (2001). You state that the submitted records are the employment applications of peace officers. Based on your representation and our review, we have marked the responsive information that must be withheld under section 552.117(a)(2). Additionally, if the city does not pay for the cellular and pager services of the peace officers at issue, those numbers must be withheld under section 552.117(a)(2); otherwise, these cellular and pager numbers must be released.

The submitted applications also contain driver's license information. Section 552.130 of the Government Code excepts from disclosure 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." Gov't Code § 552.130. In accordance with section 552.130 of the Government Code, the city must withhold the driver's license numbers and license classifications we have marked. 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).

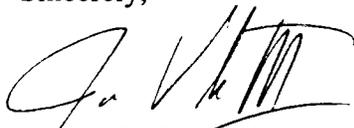
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 236899

Enc. Submitted documents

c: Phillip Bielamowicz
211 South Clark Rd.
Cedar Hill, Texas 75104
(w/o enclosures)