ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 21, 2005

Ms. YuShan Chang
Assistant City Attorney
City of Houston
Legal Department
P. O. Box 368
Houston, Texas 77001-0368

OR2005-10509

Dear Ms. Chang:

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# 239565.

The City of Houston (the "city") received a request for fourteen categories of information pertaining to a named city employee. You claim that portions of the submitted information are excepted from disclosure under sections 552.117, 552.130, and 552.147 of the Government Code. To the extent additional responsive information existed at the time the city received the request for information, we assume such information has been released to the requestor. If not, such information must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current 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 request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You state that the above listed information that you have highlighted pertains to an employee who made an election for confidentiality under section 552.024. As such, the city must withhold this information pursuant to section 552.117(a)(1) of the Government Code if the employee made the election for confidentiality prior to the city's receipt of the request for information. If the

employee did not make a timely election, then this information may not be withheld under section 552.117(a)(1).

Regardless of the applicability of section 552.117, section 552.147 of the Government Code[1] provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, if section 552.117 is not applicable, the city must still withhold the social security number under section 552.147.[2]

Lastly, section 552.130 of the Government Code excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. Accordingly, the city must withhold the Texas driver's license number you have highlighted pursuant to section 552.130.

To summarize, the named employee's personal information that you have marked must be withheld under section 552.117(a)(1) of the Government Code if the employee made a timely election for confidentiality. If section 552.117 is not applicable, the city must still withhold the social security number pursuant to section 552.147 of the Government Code. The Texas driver's license number that you have highlighted must be withheld under section 552.130 of the Government Code. The remaining submitted information must be released 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 ten 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

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[1]Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, ch. 397, 2005 Tex. Sess. Law Serv. 1091 (Vernon) (to be codified at Tex. Gov't Code § 552.147).

[2]We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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 ten calendar days of the date of this ruling.

Sincerely,

Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/krl

Ref: ID# 239565

Enc. Submitted documents

c: Mr. Jim Thompson Gysgt
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