



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 22, 2005

Ms. Charlotte A. Drew  
The Drew Law Firm  
Lakeside Professional Building  
14884 Highway 105 West  
Montgomery, Texas 77356

OR2005-10579

Dear Ms. Drew:

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# 236749.

The Magnolia Volunteer Fire Department (the "department"), which you represent, received a request for "the salary and all compensation or reimbursements for the Fire Chief on an annual basis for the past 12 months." You state that some responsive information has been provided to the requestor. You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

You assert that some of the submitted information is not responsive to the instant request for information, as it pertains to individuals other than the Fire Chief. This ruling does not address the public availability of any information that is not responsive to the request, and the department need not release that information in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ *dism'd*).

Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who timely elects to keep this information confidential pursuant to section 552.024. Gov't Code § 552.117(a)(1). 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 received by the governmental body. *See* Open Records Decision No. 530 at 5

(1989). Therefore, the department may only withhold information under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. To the extent the employee at issue made an election for confidentiality prior to the date on which the instant request for the information was received, we find that the department must withhold the social security number you have marked pursuant to section 552.117(a)(1) of the Government Code.

Even if the employee did not elect to withhold his social security number under section 552.024, his social security number is confidential under section 552.147 of the Government Code. Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, if the employee did not make a timely election, the department must withhold his social security number under section 552.147.<sup>1</sup>

Finally, we note that the submitted information contains a credit card number. Section 552.136 of the Government Code states that “[n]otwithstanding 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.” Gov’t Code § 552.136. The department must, therefore, withhold the marked credit card number under section 552.136. You fail to explain, however, how section 552.136 is applicable to the vehicle card and tax certificate numbers that you have also marked, and this information may not be withheld on that basis.

In summary, to the extent the employee at issue made an election for confidentiality prior to the date on which the instant request for the information was received, the department must withhold the social security number you have marked pursuant to section 552.117(a)(1) of the Government Code. If the employee did not make a timely election, the department must withhold his social security number under section 552.147 of the Government Code. The marked account number must be withheld under section 552.136 of the Government Code. The remaining responsive information must be released to the requestor.<sup>2</sup>

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

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<sup>1</sup>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.

<sup>2</sup>As our ruling is dispositive, we do not address your section 552.101 claim.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jpa

Ref: ID# 236749

Enc. Submitted documents

c: Mr. Russell W. Copeland  
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(w/o enclosures)