



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2006

Ms. Helen Valkavich
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2006-05527

Dear Ms. Valkavich:

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# 251006.

The City of San Antonio (the "city") received a request for information pertaining to prosecutors who were involved with the requestor's "case." You state that most of the requested information will be provided to the requestor, but claim that some of the submitted information is excepted from disclosure under sections 552.117, 552.1175, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

You assert that some of the submitted information is excepted under section 552.117 of the Government Code. Section 552.117(a)(1) excepts from disclosure the current and former home addresses and telephone 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. But a fax or cell phone number provided to an employee at public expense may not be withheld under section 552.117. *See Open Records Decision No. 506 at 5-7 (1988)* (statutory predecessor to section 552.117 not applicable to cellular mobile phone numbers provided and paid for by governmental body and intended for official use). 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*

¹We note that the Act does not require a governmental body to answer questions. *See Open Records Decision No. 555 at 1-2 (1990)*.

at 5 (1989). You state, and provide supporting documentation showing, that the employees at issue elected to keep some of these types of information confidential before the city received the request for information; therefore, the city must withhold this information under section 552.117.² We note, however, that one of the employees declined to make confidential his family member information; therefore, the city may not withhold this information under section 552.117(a)(1). The city may also not withhold the fax and cell phone numbers at issue in the submitted information if they were provided to the employee at public expense. We have marked information that must be withheld if section 552.117 applies.

You assert that some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 52.130(a)(1), (2). The city must withhold the Texas motor vehicle record information we have marked under section 552.130.

Finally, we note that some of the remaining information is excepted under section 52.137 of the Government Code. Section 52.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). See Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the individual as a government employee. The e-mail addresses at issue do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that a member of the public has affirmatively consented to the release of any e-mail address contained in the submitted materials. Therefore, the city must withhold the e-mail addresses we have marked under section 552.137.

To conclude, the city must withhold (1) the information we have marked under section 552.117, if that section applies, (2) the Texas motor vehicle record information we have marked under section 552.130, and (3) the e-mail addresses we have marked under section 552.137. The city must release the 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

²As we are able to resolve this under section 552.117, we do not address your other arguments for exception of this information.

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).

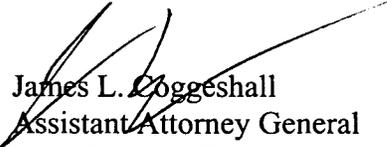
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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. 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

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Enc. Submitted documents

c: Mr. Andrew D. Rivera
903 Romeria # 105
Austin, Texas 78757
(w/o enclosures)