



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 1, 2006

Ms. Christi Worth  
Assistant General Counsel  
Teacher Retirement System of Texas  
1000 Red River Street  
Austin, Texas 78701-2698

OR2006-10221

Dear Ms. Worth:

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# 258321.

The Teacher Retirement System of Texas ("TRS") received three requests for copies of resumes, curriculum vita, and correspondence received by TRS from applicants for the chief investment officer position from March 23, 2006 through July 17, 2006, and for information pertaining to the finalists. You state that some of the requested information has been provided to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.117, 552.130, 552.137, 552.140, and 552.147 of the Government Code.<sup>1</sup> 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 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 elect to keep this information confidential pursuant to section 552.024. Gov't Code § 552.117(a)(1). We note

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<sup>1</sup>Although you raise section 552.024 of the Government Code, we note that section 552.024 is not an exception to public disclosure under chapter 552 of the Government Code. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain information relating to the current or former official or employee that is held by the employing governmental body. See Gov't Code § 552.024.

section 552.117 encompasses a personal cellular telephone number, provided that the cellular service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (Gov't Code § 552.117 not applicable to cellular mobile phone numbers 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 received by the governmental body. *See* Open Records Decision No. 530 at 5 (1989). Therefore, TRS may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You inform us, and provide documentation showing, that three of the TRS employees at issue made timely elections to keep their home addresses, home telephone numbers, family member information, and social security numbers confidential. You also provide documentation showing that an additional employee at issue timely elected to keep his home address and home telephone number confidential. Based on your representations and our review, we find that TRS must withhold the information we have marked pursuant to section 552.117(a)(1) of the Government Code.

Next, we address your claim under section 552.130 of the Government Code. Section 552.130 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, TRS must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code.

You claim that some of the e-mail addresses contained in the submitted documents are subject to section 552.137 of the Government Code. Section 552.137 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 id.* § 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). Therefore, we agree that the e-mail addresses we have marked must be withheld under section 552.137 unless their owners affirmatively consent to their release. *See id.* § 552.137(b).

Section 552.140 of the Government Code provides in relevant part:

- (a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

*Id.* § 552.140(a). The submitted information does not contain a DD-214 form of a military veteran or other military discharge records. Accordingly, TRS may not withhold any of the submitted information under section 552.140.

The remaining submitted information contains social security numbers. Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147. Therefore, TRS must withhold the social security numbers contained in the submitted information under section 552.147.<sup>2</sup>

In summary, TRS must withhold: 1) the information we have marked under section 552.117 of the Government Code; 2) the Texas motor vehicle record information we have marked under section 552.130 of the Government Code; 3) the e-mail addresses we have marked under section 552.137 of the Government Code, unless the TRS receives consent from their owners for their release; and 4) the social security numbers contained in the submitted information under section 552.147 of the Government Code. The remaining submitted 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

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<sup>2</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.

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,



Lisa V. Cubriel  
Assistant Attorney General  
Open Records Division

LVC/eb

Ref: ID# 258321

Enc. Submitted documents

c: Mr. Robert Elder  
Austin American-Statesman  
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Austin, Texas 78704  
(w/o enclosures)