



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 29, 2007

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2007-06688

Dear Mr. Bounds:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 279512.

The City of Corpus Christi (the "city") received a request for the following information about the posting for a senior corrosion technician: the questions, answers, scores, interviewees' applications, and the reason the applicant was selected. The city has released some information and asserts the remainder is excepted from disclosure under sections 552.117, 552.122, 552.130, 552.137, and 552.147 of the Government Code. We have considered the city's arguments and have reviewed the submitted information.

Section 552.117(a)(1) excepts from disclosure the home address, home telephone number, social security number, and family member information of a current or former employee of a governmental body who requests that this information be kept confidential under section 552.024. We note that an individual's personal post office box number is not a "home address" and therefore may not be withheld under section 552.117. *See Gov't Code § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of Gov't Code § 552.117 is to protect public employees from being harassed at home) (citing House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985)) (emphasis added).* 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).* Therefore, the city may only withhold information under section 552.117 on behalf

of current or former employees who made requests for confidentiality under section 552.024 prior to the date on which the request for this information was made. The city submitted the election forms of four of the five employees whose information is at issue and all timely elected confidentiality. Two of the employees elected confidentiality for all of the section 552.117 information. The other two employees elected confidentiality for their home addresses and home telephone numbers only. Thus, the city must withhold the information we marked under section 552.117(a)(1). For the employee whose election form was not submitted, the city must withhold the information we marked under section 552.117 only if the employee made a timely election to keep the information confidential. Otherwise, the city may not withhold this employee's information under section 552.117.

Section 552.130 excepts from public disclosure information that relates to a Texas driver's license. We have marked the Texas driver's license information the city must withhold under section 552.130.

Section 552.137 requires a governmental body to withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. *See id.* § 552.137(b). The city states the individuals at issue have not affirmatively consented to the release of their e-mail addresses. Thus, we agree the city must withhold the private e-mail addresses we marked pursuant to section 552.137.

Section 552.147 provides that "[t]he social security number of a living person is excepted from" required public disclosure. Therefore, the city may withhold the social security numbers under section 552.147.¹

Lastly, section 552.122(b) excepts from disclosure test items developed by a governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Additionally, when answers to test questions might reveal the substance of the questions themselves, the answers may be withheld from disclosure under section 552.122(b). *See* Open Records Decision No. 626 at 8 (1994). Having reviewed the submitted questions, we agree question 5 is a test item excepted from public disclosure by section 552.122(b). Therefore, you may withhold question 5 and the corresponding answers under section 552.122(b). However, the remaining questions do not test an individual's or

¹We 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 Public Information Act.

group's knowledge or ability in a particular area. Therefore, the city may not withhold the remaining questions under section 552.122.

In summary, the city must withhold the information we marked under section 552.117(a)(1) for four of the employees. As for the fifth employee whose section 552.024 election form was not submitted, the city must withhold the information we marked under section 552.117(a)(1) only if this employee timely elected confidentiality. The city must also withhold the Texas driver's license information we marked under section 552.130 and the private e-mail addresses under section 552.137. The city may withhold the social security numbers under section 552.147 and question 5 and its corresponding answers under section 552.122. The city must release the remainder.

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).

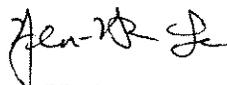
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 279512

Enc: Marked documents

c: Ms. Maria M. Gonzalez
1813 Amazon Drive
Corpus Christi, Texas 78412
(w/o enclosures)