



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2007

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

OR2007-07383

Dear Mr. Bounds:

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# 280743.

The City of Corpus Christi (the "city") received a request for copies of two leases. You state that the city has released some of the requested information. You claim that a portion of the submitted information is excepted from disclosure under sections 552.117 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Additionally, section 552.117 also encompasses personal cellular telephone and pager numbers, provided that the cellular phone and pager service is paid for by the employee with his or her own funds. *See* Open Records Decision No. 670 at 6 (2001) (extending section 552.117(a)(1) exception to personal cellular phone number and personal pager number of employee who elects to withhold home phone number in accordance with section 552.024). Whether 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). Pursuant to section 552.117(a)(1), the city must withhold the personal information that pertains to a current or former employee of the city who elected, prior to the city's

receipt of the request for information, to keep such information confidential. You provide documentation showing that some of the employees in question did timely choose not to allow public access to their personal information. Accordingly, the city must withhold these employees' personal information, which we have marked, pursuant to section 552.117. However, you do not provide documentation showing that the remaining employees in question did timely choose not to allow public access to their personal information. Therefore, because you have not demonstrated that these employees have made a proper election under section 552.024, we must rule conditionally in respect to these employees. Thus, to the extent that these employees made timely elections under section 552.024, the city must withhold the information we have marked under section 552.117(a)(1). The city may not withhold this information under section 552.117 if these employees did not make a timely election to keep the information confidential.

Section 552.136(b) 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. We agree that the city must withhold the insurance policy numbers you have marked pursuant to section 552.136.

Finally, we note that some of the remaining information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of materials that are subject to copyright protection unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No.550 (1990).

In summary, for those employees who made timely elections, the city must withhold the personal information we have marked under section 552.117(a)(1) of the Government Code. The insurance policy numbers that you have marked must be withheld under section 552.136 of the Government Code. The remaining submitted information must be released to the requestor; however, in releasing information that is protected by copyright, the city must comply with applicable copyright law.

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,



M. Alan Akin
Assistant Attorney General
Open Records Division

MAA/jb

Ref: ID# 280743

Enc. Submitted documents

c: Mr. Michael Hauenstein
196 Park Street, Apt. 6
New Haven, Connecticut 06511
(w/o enclosures)