



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 14, 2007

Mr. Gary L. Warren, Sr.  
Executive Director  
Texas Commission on Fire Protection  
P.O. Box 2286  
Austin, Texas 78768

OR2007-07557

Dear Mr. Warren:

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# 281111.

The Texas Commission on Fire Protection (the "commission") received a request for several categories of information pertaining to a specific position for employment. You state that some responsive information has been released to the requestor. However, we understand you to claim that portions of the submitted information are excepted from disclosure under sections 552.130 and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the submitted information may be subject to section 552.117 of the Government Code. 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 official or employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code.<sup>1</sup> Whether a particular piece of information is protected by section 552.117 must be determined at the time the

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the commission must withhold the information we have marked under section 552.117(a)(1) if it pertains to employees or former employees and the employees at issue made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Such information may not be withheld for applicants who are not current or former employees of the commission.

You contend that some of the remaining information is excepted under section 552.130 of the Government Code. This section excepts from public disclosure information that relates to “a motor vehicle operator’s or driver’s license or permit issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1). Therefore, the commission must withhold the Texas driver’s license information that we have marked under section 552.130 of the Government Code.

We next note the existence of e-mail addresses in the submitted information. Section 552.137 of the Government Code 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). The e-mail addresses we have marked do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that the commission has received consent for the release of the e-mail addresses at issue. Therefore, the commission must withhold the e-mail addresses we have marked under section 552.137 of the Government Code.

You assert that some of the remaining information is excepted under section 552.147 of the Government Code, which provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. The commission may withhold the social security numbers we have marked in the submitted information under section 552.147.<sup>2</sup>

As a final point, we note that some of the submitted information pertains to the requestor. In this regard, we note that section 552.023 of the Government Code provides a person or a person’s authorized representative with a special right of access to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person’s privacy interests. Accordingly, pursuant to section 552.023 of the Government Code, the requestor has a special right of access to his own information that would otherwise be withheld pursuant to sections 552.117, 552.130, 552.137, and 552.147 of the Government Code. However, if the commission receives a

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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.

request for this information from a different requestor, the commission must again seek a decision from this office.

In summary, the commission must withhold the personal information we have marked under section 552.117(a)(1) of the Government Code if it pertains to an employee or former employee and the employee at issue timely elected to keep his or her personal information confidential. The commission must also withhold the Texas driver's license information we have marked under section 552.130 of the Government Code and the e-mail addresses we have marked under section 552.137 of the Government Code. The commission may withhold the social security numbers we have marked under section 552.147 of the Government Code. The remaining information must be released 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 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,

A handwritten signature in cursive script that reads "Aries Solis".

Aries Solis  
Assistant Attorney General  
Open Records Division

AS/eeg

Ref: ID# 281111

Enc. Submitted documents

c: Mr. Joseph E. Parsons  
12708 Scofield Farms Drive  
Austin, Texas 78727  
(w/o enclosures)