



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 28, 2007

Mr. Anthony C. McKettrick  
Assistant City Attorney  
Office of the City Attorney  
City of Laredo  
P.O. Box 579  
Laredo, Texas 78042-0579

OR2007-08185

Dear Mr. McKettrick:

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#282370.

The City of Laredo (the "city") received a request for the address and telephone number of a named former city manager, in addition to the following: (1) a copy of the Laredo Transit Management Inc. ("LTMI") board of director's by-laws; (2) a copy of the collective bargaining agreement between LTMI and the United Transportation Union, Local 1670; (3) copies of the minutes of LTMI's board of director meetings regarding its budget, and the selection of the general manager and other management personnel. You state that you do not have responsive documents with regard to items (1), (2), and (3).<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the submitted information is not responsive to the present request. You have submitted information regarding the former city manager that was not requested. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release the information we have marked in response to the request.

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<sup>1</sup>We note the Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

Section 552.117(a)(1) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, personal cellular 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 of the Government Code. *See* Gov't Code § 552.117; Open Records Decision No. 676 at 6 (2002).

Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request under section 552.024 that the information be kept confidential. You inform us that "it has been assumed by the relevant departmental employees, administrative services, that [the former city manager] timely elected non-disclosure" of the information at issue. You further inform us, however, that the city "cannot find [the] actual statutorily required written request" for non-disclosure. You state that the city does have a document "reflecting that the information [at issue] is confidential." As we are unable to determine whether the city manager at issue made a timely election of confidentiality, we must rule conditionally. If the city manager timely elected to keep his personal information confidential, you must withhold this information, which we have marked, under section 552.117(a)(1) of the Government Code. The city may not withhold this information under section 552.117(a)(1) if the city manager at issue did not make a timely election.

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,



Holly R. Davis  
Assistant Attorney General  
Open Records Division

HRD/eb

Ref: ID# 282370

Enc. Submitted documents

c: Mr. James M. Allen  
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1919 Smith Street, Suite 1545  
Houston, Texas 77002  
(w/o enclosures)