



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 9, 2007

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

**CORRECTED COPY**

OR2007-10171A

Dear Mr. Bounds:

This office issued Open Records Letter No. 2007-10171 (2007) on August 8, 2007. We have examined this ruling and determined that Open Records Letter No. 2007-10171 is incorrect. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for Open Records Letter No. 2007-10171. *See generally* Gov't Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")).

You ask whether certain information is subject to required public disclosure under the Act. Your request was assigned ID# 285999.

The City of Corpus Christi (the "city") received a request for information pertaining to applicants for the city's firefighter examination. You state that the city has provided most of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.117 of the Government Code. We have considered the exception 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 request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is received. *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 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 received. In this instance, you inform us that the individuals whose home addresses you seek to withhold were already employed by the city when they applied for the city's firefighter examination. You provide documentation showing that the

employees whose addresses are at issue timely elected confidentiality under section 552.024. Accordingly, we agree that the city must withhold the information you have marked under section 552.117(a)(1) of the Government Code. The remaining submitted information must be released.

Additionally, you request that this office issue a previous determination allowing the city to withhold the following categories of information:

- 1) current or former city official's or employee's home addresses and telephone numbers, personal cellular phone numbers, personal pager numbers, social security numbers, and family member information under section 552.117(a)(1) of the Government Code; and in the alternative
- 2) the home addresses of applicants for the city's firefighter examination under section 552.117(a)(1) of the Government Code.

With regard to request number one, we decline to issue such a previous determination at this time. In response to request number two, this letter ruling shall serve as a previous determination under section 552.301(a) that the home addresses of applicants for the city's firefighter examination who were already employed by the city at the time of the application may be withheld under section 552.117(a)(1) of the Government Code. We note however, that if the individual at issue has failed to timely elect confidentiality under section 552.024 the city may not withhold such information.

This previous determination applies only to information requested in number two above. *See* Open Records decision No. 673 at 7 (2001). So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the city need not ask for a decision from this office again with respect to the home addresses of applicants to the city's firefighter examination provided the individual at issue timely elected confidentiality under section 552.024 pursuant to section 552.117(a)(1) of the Government Code. *See* ORD 673 at 7.

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/eeg

Ref: ID# 285999A

c: Mr. Brent Collins, President  
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P.O. Box 312  
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(w/o enclosures)