



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2007

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

OR2007-13122

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# 291424.

The City of Corpus Christi (the "city") received a request for copies of the "travel policy for Corpus Christi City Council members and individual member expenditures/destinations for 2006 and 2007." You state that you are releasing some information to the requestor, but claim that portions of the submitted information are 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, 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. Gov't Code § 552.117(a)(1). However, information subject to section 552.117(a)(1) may not be withheld from disclosure if the current or former employees made the request for confidentiality under section 552.024 after the request for information at issue was received by the governmental body. Whether a particular piece of information is public must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). In this case, you do not inform us nor provide documentation showing if or when the employees at issue elected confidentiality under section 552.024. Thus, if the employees at issue timely elected to keep their personal information confidential, you must withhold the information you have marked, and the

additional information 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 employees at issue did not make timely elections.

Next, we address your claim that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. This section 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 you must withhold the account numbers you have marked, as well as the additional account numbers we have marked, under section 552.136. However, we find that you have failed to explain how the expiration dates you have marked constitute access device numbers for purposes of section 552.136. Thus, with the exception of the expiration dates, which we have marked for release, the city must withhold the marked information under section 552.136.

Lastly, we note that the submitted information also contains e-mail addresses that are excepted from disclosure under section 552.137 of the Government Code. 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). You do not inform us that the owners of the email addresses have affirmatively consented to release. Therefore, the city must withhold the e-mail addresses we have marked under section 552.137, unless the owners have affirmatively consented to release.¹

In summary, if the employees at issue timely elected confidentiality, the city must withhold the information you have marked, and the additional information we have marked, under section 552.117 of the Government Code. Except for the information we have marked for release, the city must withhold the information you have marked, and the additional information we have marked, under section 552.136 of the Government Code. The city must withhold the information we have marked pursuant to section 552.137 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

¹The Office of the Attorney General will raise a mandatory exception, like section 552.137 of the Government Code, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/mcf

Ref: ID# 291424

Enc. Submitted documents

c: Ms. Jaime Powell
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(w/o enclosures)