



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 24, 2007

Ms. Lisa Morris  
Public Information Officer and Records Manager  
Community Associations of The Woodlands, Texas  
2201 Lake Woodlands Drive  
The Woodlands, Texas 77380

OR2007-13877

Dear Ms. Morris:

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# 292608.

The Community Associations of The Woodlands ("CATW") received a request for the invoices of all CATW employees, including The Woodlands Fire Department (the "fire department") and Parks and Recreation Department, who receive memberships to the Clubs of The Woodlands (the "club"). You claim that the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that we received comments and responsive information from the fire department, but you have not provided any information responsive to the request for information pertaining to the Parks and Recreation Department, or any other department of CATW. We assume that, to the extent any responsive invoices for these other departments existed when CATW received the request for information, you have released them to the requestor. If not, then you must do so immediately. *See Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).*

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy. Common-law privacy protects information that (1) contains highly intimate or embarrassing

facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Prior decisions of this office have found that financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy but that there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See Open Records Decision Nos. 600 (1992), 545 (1990), 373 (1983)*. You state that the department is responsible for payment of membership dues to the club and you do not claim this information should be withheld. However, you claim that the submitted invoice also contains references to financial transactions pertaining to personal activities for which the individual at issue directly and personally pays. Thus, you claim that this information pertains to personal financial transactions to which the public does not have a legitimate interest. *See Open Records Decision Nos. 620 (1993), 600 (1992)*. Based on your representation and, our review of the submitted invoice, CATW must withhold the financial information it has marked under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(1) excepts from disclosure the current and former 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 of the Government Code. *See Gov't Code § 552.117*. 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)*. You do not inform us nor provide documentation showing that the employee whose information is at issue timely elected confidentiality under section 552.024. Thus, if the employee timely elected to keep his home address confidential, you must withhold the information you have marked under section 552.117(a)(1) of the Government Code. However, you may not withhold this information under section 552.117(a)(1) if the employee at issue did not make a timely election.

You also state that the submitted information contains a membership account number that allows the authorized individual to obtain goods and services at the club. Section 552.136 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(b). We note that “access device” is defined as a means of account access that may be used to obtain money, goods, services, or another thing of value.” *Id.* § 552.136(a). You have marked numbers that you assert “will allow financial transactions to be incurred for goods and services.” Based on this representation, we agree that the department must withhold the employee’s membership number under section 552.136. However, you have also marked numbers which you have not adequately demonstrated constitute access device numbers under section 552.136. Thus, you must withhold only the membership account number we have marked under section 552.136 of the Government Code.

In summary, the information you have marked pertaining to personal financial transactions must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. If the employee in question timely elected confidentiality of his home address, you must withhold the address under section 552.117 of the Government Code. If the employee did not timely elect confidentiality, the address may not be withheld. The account number we have marked must be withheld under section 552.136 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 black ink, appearing to read 'M. Alan Akin', with a long horizontal flourish extending to the right.

M. Alan Akin  
Assistant Attorney General  
Open Records Division

MAA/mcf

Ref: ID# 292608

Enc. Submitted documents

c: Ms. Tiffany Williams  
Villager Staff  
16500 Lake Front Drive  
The Woodlands, Texas 77380  
(w/o enclosures)