



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 26, 2008

Ms. Patricia E. Carls
Carls, McDonald & Dalrymple
Barton Oaks Plaza 2
901 South Mopac Expressway, Suite 500
Austin, Texas 78746

OR2008-08684

Dear Ms. Carls:

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# 314038.

The City of Georgetown (the "city"), which you represent, received a request for the names and mailing addresses for all city employees. You claim that some of the requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted sample of information.¹

Section 552.117(a)(1) excepts from disclosure the current and former home addresses 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. Gov't Code § 552.117(a)(1). 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). The submitted information contains city employees' home addresses and their elections of whether or not this information may be released. We note, however,

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

section 552.117 only protects home addresses, not post office box numbers. *See* Gov't Code § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of Gov't Code § 552.117 is to protect public employees from being harassed *at home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985)). Thus, the city may not withhold post office box numbers under section 552.117. For those city employees who elected to withhold their home addresses prior to the date the city received this request, the city must withhold their home addresses pursuant to section 552.117(a)(1). The city must release the home addresses of those remaining employees who did not make timely elections.

We note that you assert section 552.1175 of the Government Code for the peace officers' home addresses. Section 552.1175 applies to peace officers who are not employed by the governmental body that receives a request for information. Because the peace officers at issue are employed by the city, the proper exception in this instance is section 552.117(a)(2). Section 552.117(a)(2) states a peace officer's home address is excepted "regardless of whether the officer complies with Section 552.024 or 552.1175" of the Government Code. Gov't Code § 552.117(a)(2).² Unlike section 552.1175, section 552.117(a)(2) does not provide for an election. Thus, the information is confidential under section 552.117(a)(2) even if the peace officer elected to release the information. Therefore, we find that the city must withhold the peace officers' home addresses contained in the submitted information pursuant to section 552.117(a)(2). However, as noted above, the city may not withhold any post office box numbers belonging to peace officers.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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

²"Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

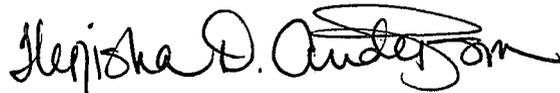
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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 challenge 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,



Henisha D. Anderson
Assistant Attorney General
Open Records Division

HDA/mcf

Ref: ID# 314038

Enc. Submitted documents

c: Mr. Randy Reynolds
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(w/o enclosures)