



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2008

Mr. Larry A. Baskind  
Baskind & Hosford, P.C.  
300 East Main, Suite 908  
El Paso, Texas 79901-1379

OR2008-12060

Dear Mr. Baskind:

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# 322050.

The Canutillo Independent School District (the "district"), which you represent, received a request for the cell phone bill records of the Executive Director of the district's Facilities and Transportation Division for the past three months. You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You seek to withhold some of the submitted information under section 552.117 of the Government Code. Section 552.117(a)(1) excepts from disclosure the current and former home addresses and telephone numbers, social security number, 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. Whether a particular piece of 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 state, and provide supporting documentation showing, that the Executive Director elected to keep these types of information confidential before the district received the request for information. You have also provided a list of eight telephone numbers that you seek to withhold within the submitted billing records. We agree that the district must withhold these eight telephone numbers that you have marked throughout the submitted

documents, as well as the information we have marked, under section 552.117(a)(1). We note that you have marked telephone numbers other than those in the list of eight. You have not explained how these additional numbers are excepted under section 552.117(a)(1); therefore, the district may not withhold this information, which we have marked for release, on that ground.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses the doctrine of common-law privacy, which 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). However, this office has found that the names, home addresses, and telephone numbers of members of the public are not excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (absent special circumstances, home addresses and telephone numbers of private citizens are generally not protected under the Act's privacy exceptions). You seek to withhold the telephone numbers of friends who received or sent calls to the Executive Director on his cell phone, which is paid in part by the district; however, we conclude that this information is not intimate or embarrassing. *See id.* Therefore, none of the submitted information may be withheld under section 552.101 in conjunction with common-law privacy.

We note that some of the submitted information is excepted under section 552.136 of the Government Code. Section 552.136(b) provides 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." The district must withhold the account numbers, a representative sample of which we have marked, under section 552.136.

To conclude, with the exception of the information that we have marked for release, the district must withhold telephone numbers you have marked, as well as those we have marked, under section 552.117 of the Government Code. The district must also withhold the submitted account numbers, a representative sample of which we have marked, under section 552.136 of the Government Code. The district must release the remaining information.

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). If the governmental body does not file suit over 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).

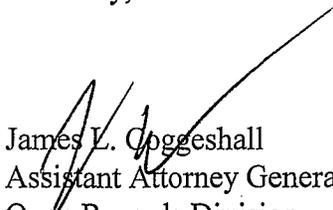
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 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,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/ma

Ref: ID# 322050

Enc. Submitted documents

c: Ms. Shelley McMahon  
905 Totonaca  
El Paso, Texas 79912  
(w/o enclosures)