



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2008

Mr. C. Patrick Phillips
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2008-16682

Dear Mr. Phillips:

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# 329360.

The City of Fort Worth (the "city") received a request for the employment history of a named city employee. You state that you have released a portion of the responsive records to the requestor. You inform us that you have redacted Texas motor vehicle record information pursuant to previous determinations issued to the city Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you are withholding social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that portions of the remaining 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 current and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Code § 552.117(a)(1). Whether information is protected by section 552.117(a)(1) must be determined at the time the request is made. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information.

You have marked the information that the city seeks to withhold under section 552.117. You state that the employee whose information is at issue timely elected to keep her home address and telephone number confidential under section 552.024. However, we note you do not state that the employee elected to keep her family member information confidential under section 552.024. Thus, to the extent that the employee in question timely elected confidentiality for this information under section 552.024, the city must withhold the information that you have marked under section 552.117(a)(1). If no such election has been made under section 552.024, then the city may not withhold any of the information you have marked under section 552.117(a)(1) of the Government Code. The remaining information must be released.

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,

Christina Alvarado
Assistant Attorney General
Open Records Division

CA/ma

Ref: ID# 329360

Enc. Submitted documents

c: Requestor
(w/o enclosures)