



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 7, 2009

Mr. Michael P. Mondville
General Counsel
Windham School District
P.O. Box 40
Huntsville, Texas 77342-0040

OR2009-06124

Dear Mr. Mondville:

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# 341701.

The Windham School District (the "district") received a request for seven categories of information pertaining to named employees. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state the district asked the requestor for clarification regarding category one of the request. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed). You indicate that the requestor has not yet responded to this request for clarification. Therefore, the district is not required to release any information that might be responsive to category one of the request at this time. But if the requestor responds to the clarification request, the district must seek a ruling from this office before withholding any responsive information from the requestor. *See* Open Records Decision No. 663 (1999) (ten business-day deadline tolled while governmental body awaits clarification).

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses, 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. Gov't Code § 552.117(a)(1). We note that a post office box number is not a "home address" for purposes of section 552.117.² Whether a particular piece of information is protected under 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). Therefore, the district may only withhold information under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Accordingly, if the employees whose information is at issue timely elected to keep their personal information confidential, the district must withhold the information we have marked in the documents subject to section 552.022 under section 552.117(a)(1). The district may not withhold the information we have marked under section 552.117(a)(1) if the employees did not timely elect to keep this information confidential.

Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Therefore, the district must withhold the Texas motor vehicle record information we have marked in the documents subject to section 552.022 under section 552.130 of the Government Code.

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. Thus, the district must withhold the information that we have marked in the documents subject to section 552.022 under section 552.136 of the Government Code.

We now address your argument under section 552.103 of the Government Code for the remaining information not subject to section 552.022. Section 552.103 of the Government Code provides as follows:

- (a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or

²See 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)) (emphasis added).

In summary, if the employees whose information is at issue timely elected to keep their personal information confidential, the district must withhold the information we have marked in the documents subject to section 552.022 under section 552.117(a)(1) of the Government Code. The district must also withhold the information we have marked in the documents subject to section 552.022 under sections 552.130 and 552.136 of the Government Code. To the extent the information not subject to section 552.022 has not been provided to or obtained from the opposing party, it may be withheld under section 552.103 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 341701

Enc. Submitted documents

cc: Requestor
(w/o enclosures)