



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2009

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
Office of the City Attorney
City Hall
Dallas, Texas 75201

OR2009-09384

Dear Mr. Toscano:

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# 348329.

The City of Dallas (the "city") received a request for information relating to (1) repairs, complaints, and notices for a specified location near a school zone; and (2) all police reports and notices of claims concerning injuries and property damage for the same location from 2004 to April 21, 2009. You claim that the submitted information is excepted from disclosure under section 552.108, 552.117, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which is a representative sample.¹

Initially, you inform us that the submitted information in Exhibit E was the subject of a previous request for information in response to which this office issued Open Records Letter No. 2009-05633 (2009). As we have no indication that the law, facts, and circumstances on which this prior ruling was based have changed, the city may continue to rely on this ruling

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.

as a previous determination and dispose of this information in accordance with Open Records Letter No. 2009-05633. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed; first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will now address your arguments under section 552.117 and 552.136 of the Government Code for the remaining information at issue.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests that the information be kept confidential under section 552.024 of the Government Code. You raise this section for the deceased employee's personnel information that you have submitted in Exhibit B. Because the protection afforded by section 552.117 includes "current or former" officials or employees, we note that the protection generally does not lapse at death, as it is also intended to protect the privacy of family members. However, because the protection of social security numbers under section 552.117 is intended solely to protect the privacy of the employee, it lapses at death. *See* Moore, 589 S.W.2d 489; *see also* Attorney General Opinions JM-229; H-917. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989).

You inform us, and provide documentation showing, that the employee at issue timely elected confidentiality for his home address and telephone number under section 552.024. Therefore, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code.

Section 552.136 of the Government Code provides that "[n]otwithstanding any other provision of [the Act], 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). You inform us that the employee identification numbers you have marked in Exhibit D are used in conjunction with one additional digit in order to access city credit union accounts. Therefore, we agree that the city must withhold these identification numbers under section 552.136. In addition, the submitted information contains an insurance policy number. The city must withhold the insurance policy number, which we have marked, under section 552.136.

In summary, the city may continue to rely on our ruling in Open Records Letter No. 2009-05633 (2009) as a previous determination and dispose of the information in Exhibit E in accordance with that ruling. The city must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The city must withhold the employee identification numbers it has marked, and the insurance policy number we have

marked, under section 552.136 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,

Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/dls

Ref: ID# 348329

Enc. Submitted documents

c: Requestor
(w/o enclosures)