



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2009

Ms. Susan K. Bohn
General Counsel
Lake Travis Independent School District
3322 Ranch Road 620 South
Austin, Texas 78738

OR2009-09857

Dear Ms. Bohn:

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# 349364 (Lake Travis ISD reference nos. DL 3781-3785, 3787).

The Lake Travis Independent School District (the "district") received twenty-five requests from the same requestor on the same day. You state you are releasing a portion of the requested information. You have submitted six requests to this office; five ask for exit interview documents created and/or submitted during specified time periods, and one seeks copies of all documents filed with the court in a specified case. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.103, 552.117, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, you acknowledge the information in Tab 3 consists of documents filed with a court. Section 552.022 of the Government Code provides in relevant part:

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.

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(17) information that is also contained in the public court record[.]

Gov't Code § 552.022(a)(17). Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Such information must be released unless it is expressly confidential under other law. You claim the court-filed documents are excepted from disclosure under section 552.103 of the Government Code. Section 552.103 is a discretionary exception that protects a governmental body's interests and is therefore not "other law" for purposes of section 552.022(a)(17). *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). Therefore, the information subject to section 552.022(a)(17) may not be withheld under section 552.103. We note, however, portions of the section 552.022 documents are subject to section 552.137 of the Government Code, which constitutes other law for section 552.022 purposes. Accordingly, we will address the applicability of section 552.137 to the documents subject to section 552.022. We will also consider your remaining arguments for the information not subject to section 552.022.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has also found that personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992) (finding personal financial information to include designation of beneficiary of employee's retirement benefits and optional insurance coverage; choice of particular insurance carrier; direct deposit authorization; and forms allowing employee to allocate pretax compensation to group insurance, health care, or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets,

bills, and credit history). Upon review, we agree the information we have marked in Tab 2 is intimate or embarrassing and not of legitimate public interest. Therefore, the district must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

You raise section 552.117 of the Government Code for portions of the remaining information within Tab 2. Section 552.117(a)(1) excepts from disclosure the home addresses and 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. *See Gov't Code* §§ 552.117(a)(1), .024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989)*. The district may only withhold information under section 552.117(a)(1) on behalf of a former or current employee who has made a request for confidentiality under section 552.024 prior to the date on which the request for information was made. You state the individuals whose information is at issue elected to keep their information confidential prior to the date the district received the current request for information. Thus, the district must withhold the information you have marked, in addition to the information we have marked, under section 552.117(a)(1) of the Government Code.

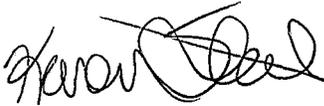
Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Gov't Code* § 552.137(a)-(c). We note, however, that section 552.137 does not apply to the work e-mail addresses of officers or employees of a governmental body, a website address, or the general e-mail address of a business. You inform us members of the public have not affirmatively consented to the release of the e-mail addresses at issue. Accordingly, the district must withhold the e-mail addresses you have marked in Tab 2, as well as the e-mail addresses we have marked in Tab 3, under section 552.137.

In summary, the district must withhold the information we have marked in Tab 2 pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold the information you have marked, in addition to the information we have marked, in Tab 2 pursuant to section 552.117(a)(1) of the Government Code. The district must withhold the information you have marked in Tab 2, as well as the information we have marked in Tab 3, under section 552.137 of the Government Code. The remaining submitted 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,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/cc

Ref: ID# 349364

Enc. Submitted documents

c: Requestor
(w/o enclosures)