



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 20, 2009

Mr. Clark T. Askins
askins & askins P.C.
Assistant City Attorney
City of La Porte
P.O. Box 1218
La Porte, Texas 77572-1218

OR2009-10043

Dear Mr. Askins:

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# 349516.

The City of La Porte (the "city"), which you represent, received a request for specified employment information regarding a named former city employee. We understand you to claim portions of the submitted employment records are excepted from disclosure under sections 552.117, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the request for paychecks issued to the named former employee. To the extent information responsive to this aspect of the request existed on the date the city received this request, we assume you have released it. If you have not released any such information, you must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

You indicate the submitted employment reference contact information is excepted from disclosure under the Act. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold information from disclosure must raise any

applicable exceptions to disclosure and provide arguments explaining the applicability of those exceptions. Gov't Code § 552.301(b), (e)(1)(A). Although you seek to withhold the submitted contact information, you have not directed our attention to any law, nor are we aware of any law, that excepts this type of information.¹ Therefore, the city may not withhold any of the submitted employment reference contact 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 officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether 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). The city may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Although you claim the former employee's social security number, home telephone numbers, and home addresses are excepted from disclosure, you state there is no record the former employee timely chose to not allow public access to his personal information. Consequently, we find you have failed to demonstrate the applicability of section 552.117(a)(1) to any of the former employee's personal information, and none of the information may be withheld on this basis.

You claim the driver's license number in the submitted information is excepted from disclosure. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We note section 552.130 does not apply to out-of-state motor vehicle record information. The only driver's license number contained in the submitted information is a California driver's license number. Therefore, we find you have failed to demonstrate the applicability of section 552.130 of the Government Code to the submitted driver's license number, and it may not be withheld on this basis.

Section 552.136 of the Government Code provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

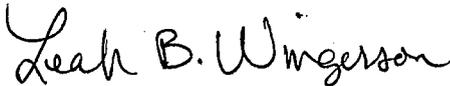
(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Id. § 552.136. Although you claim the former employee's personal bank account information is excepted from disclosure, we note the submitted information includes only the bank's name and address, but does not include account or routing numbers. Thus, we find you have failed to demonstrate the applicability of section 552.136 to the former employee's bank information, and the information may not be withheld on this basis. As you have claimed no further exceptions to disclosure for the submitted information, it must be released.²

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

²We note the submitted information includes a social security number. Section 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.

Ref: ID# 349516

Enc. Submitted documents

c: Requestor
(w/o enclosures)