



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 21, 2009

Ms. Carolyn Foster
Associate General Counsel
Parkland Heath & Hospital System
5123 Harry Hines Boulevard
Dallas, Texas 75235

OR2009-10078

Dear Ms. Foster:

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# 349594.

The Dallas County Hospital District d/b/a Parkland Heath & Hospital System (the "district") received a request for the addresses of sixteen named, or partially named, employees.¹ You claim that the requested information is excepted from disclosure under sections 552.103 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that most of the submitted information is not responsive to the instant request because it does not consist of the sixteen named employees' addresses. The district need not release nonresponsive information in response to this request and this ruling will not address that information.

Next, we must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this

¹We note a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). You represent that the district has made an effort to determine the correct names of the employees the requestor attempted to identify. However, you state, and the request for information reflects, that only a partial name was provided for three employees and, thus, the district has been unable to identify these employees.

office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), the governmental body must, within fifteen business days of receiving the request, submit to this office (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.* § 552.301(e). You inform us that the district received this request on May 8, 2009. However, you did not submit to this office a copy or representative sample of the information requested until July 17, 2009. Consequently, we find that the district failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Although you raise section 552.103 of the Government Code, that section is a discretionary exception that protects a governmental body's interests and which may be waived. *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 at 5 (1999) (waiver of discretionary exceptions). Thus, section 552.103 does not provide a compelling reason for non-disclosure, and the district may not withhold the submitted information under that exception. However, section 552.117 of the Government code can provide a compelling reason for non-disclosure. Therefore, we will address the district's argument against disclosure under this exception.

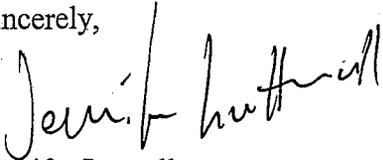
Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. *See* Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is received. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the district may only withhold information under section 552.117 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 information was received. In this case, you inform us, and provide documentation showing, that the employees whose

information is at issue timely elected confidentiality for their personal information. Accordingly, the district must withhold the responsive information, consisting of the named employees' home addresses, under section 552.117(a)(1) of the Government Code.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 349594

Enc. Submitted documents

c: Requestor
(w/o enclosures)