



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2009

Ms. Mariví Gambini
Paralegal
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2009-15195

Dear Ms. Gambini:

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# 359300.

The City of Irving (the "city") received a request for the employment application of a specified animal control officer and the times that Irving Animal Services ("IAS") staff were scheduled to work on the date of the request. You state that you are releasing portions of the requested employment application, but with redactions made pursuant to section 552.117 of the Government Code.¹ You claim that other submitted information is excepted from

¹Section 552.117 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. Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the employee or official or former employee or official chooses not to allow public access to the information. See Gov't Code § 552.024(c).

disclosure under sections 552.107(2) and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the city did not submit arguments or information responsive to the portion of the request seeking the times that IAS staff were scheduled to work on the date of the request. To the extent any information responsive to this portion of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it 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 assert that a court order prohibits release of the information you have marked. Section 552.107(2) of the Government Code excepts information from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). You have submitted for our review a copy of an "Order Prohibiting Public Disclosure of Criminal History Record Information" issued in accordance with section 411.081(d) of the Government Code. *See id.* § 411.081(d) (person placed on deferred adjudication for certain offenses may petition court for nondisclosure order, which would prohibit criminal justice agencies from disclosing criminal history record information ("CHRI") related to offense). The court ordered all criminal justice agencies not to disclose the CHRI related to the specified offense that is subject to the order. We note that the information you have marked was submitted to the city by the individual at issue and is not CHRI for purposes of chapter 411 of the Government Code. *See id.* § 411.082(2) (defining "CHRI" as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions"). Therefore, the city may not withhold the information you have marked under section 552.107(2) of the Government Code.

Next, 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." *Id.* § 552.130(a)(1). Accordingly, the city must withhold the Texas driver's license information you have marked under section 552.130. As you make no further arguments against disclosure, the remaining information must be released to the requestor.

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.

²Although you raise section 552.101 in conjunction with a court order, we note that the proper exception to raise in this instance is section 552.107(2) of the Government Code. *See* Gov't Code § 552.107(2). Accordingly, we will consider your argument under this section.

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, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 359300

Enc. Submitted documents

c: Requestor
(w/o enclosures)