



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 28, 2010

Mr. Jon Thatcher
Wolfe, Tidwell & McCoy, LLP
Attorney for City of Anna
2591 Dallas Parkway, Suite 205
Firsco, Texas 75034

OR2010-06057

Dear Mr. Thatcher:

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# 382756 (C03029PIR20100329-01).

The City of Anna (the "city"), which you represent, received a request for city council candidates and their contact information, including e-mail addresses. You state you will release some information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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, Gov't Code § 552.117. We note this section does not apply to an individual's work telephone number. 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). We note that section 552.117 also encompasses personal cellular telephone numbers, provided that the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular mobile phone numbers paid for by governmental body and intended for official use). You state the information at issue consists of the personal telephone numbers and home addresses of

officials who timely requested confidentiality under section 552.024. Accordingly, except for the work telephone numbers, the city must withhold the telephone numbers and home addresses you have marked under section 552.117(a)(1) of the Government Code; however, the city may only withhold the cellular telephone numbers at issue if the officials paid for the cellular telephone service with their own funds.

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).¹ See Gov’t Code § 552.137(a)–(c). We note that section 552.137 does not apply to a government employee or official’s work e-mail address because such an address is not that of the employee or official as a “member of the public” but is instead the address of the individual as a governmental employee or official. We also note section 552.137 is not applicable to the general e-mail address of a business or organization. Therefore, to the extent the e-mail addresses we have marked are personal e-mail addresses, the city must withhold these e-mail addresses under section 552.137 of the Government Code, unless the owners have affirmatively consented to their public release.²

In summary, except for the work telephone at issue, the city must withhold the telephone numbers and home addresses you have marked under section 552.117(a)(1) of the Government Code; however, the city may only withhold the cellular telephone numbers at issue if the officials paid for the cellular telephone service with their own funds. To the extent the e-mail addresses we have marked are personal e-mail addresses, the city must withhold these e-mail addresses under section 552.137 of the Government Code, unless the owners have affirmatively consented to their public release. 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.

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,

¹ The 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).

² We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 382756

Enc. Submitted documents

cc: Requestor
(w/o enclosures)