



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 28, 2010

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2010-16389

Dear Mr. Mann:

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# 398371 (GCA# 10-0620).

The City of Garland (the "city") received a request for a list of city employees, including eighteen categories of information. You state you have released some of the requested information. You claim portions of the submitted information are excepted from disclosure under sections 552.117 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(2) of the Government Code excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code. Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. However, an individual's personal post office box number is not a "home address" and therefore may not be withheld under section 552.117. *See* Gov't Code § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear the purpose of section 552.117 is to protect public employees from being harassed *at home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1979, 69th Leg. (1985)) (emphasis added). You state portions of the submitted information pertain to peace officers. However, we note some of the marked addresses are post office box numbers, which, as stated above, do not constitute home addresses for purposes of section 552.117. Accordingly, with the exception of the marked post office box numbers, the city must withhold the information you have marked that

pertains to licensed peace officers pursuant to section 552.117(a)(2) of the Government Code, regardless of whether the officer elected under section 552.024.

Next, you claim section 552.117(a)(1) of the Government Code for portions of the remaining information. Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024. *See* Gov't Code § 552.117(a)(1). As noted above, an individual's personal post office box number is not a "home address" and therefore may not be withheld under section 552.117. *See* Gov't Code § 552.117; ORD 622 at 4 (1994). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. You explain the employees who timely elected confidentiality for their personal information are designated as "unlisted" within the submitted documents. You further explain the information you seek to withhold is highlighted in blue within the remaining information. However, we note you have highlighted in blue the personal information of employees who are not designated as "unlisted" in the submitted information. We further note several employees who are designated as "unlisted" are not highlighted in blue. Additionally, you have highlighted post office box numbers in blue. Therefore, with the exception of the highlighted post office box numbers, the city must withhold the home addresses and telephone numbers of city employees who timely elected confidentiality under section 552.117(a)(1). Conversely, to the extent the employees at issue did not timely request confidentiality, the city may not withhold the information at issue under section 552.117(a)(1).

You argue portions of the submitted information are subject to section 552.136 of the Government Code. Section 552.136 provides, "[n]otwithstanding any other provision of [the Act], 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." Gov't Code § 552.136(b). Section 552.136(a) defines "access device" as "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 . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument." *Id.* § 552.136(a). You seek to withhold employees' personal identification numbers under section 552.136. You contend the information at issue is "used to access the individuals' personal benefits (wages and salary information, vacation time, sick leave, FMLA), insurance information, and other personal information." Having considered your arguments, we conclude you have not demonstrated how the information at issue, whether used alone or in conjunction with

another device, may be used to obtain money, goods, or services, or to initiate a transfer of funds. We therefore conclude you have failed to demonstrate how the information at issue constitutes "access device numbers" for purposes of section 552.136. Therefore, the city may not withhold the information you have highlighted in yellow under section 552.136 of the Government Code.

In summary, with the exception of the marked post office box numbers, the city must withhold the information you have marked that pertains to licensed peace officers pursuant to section 552.117(a)(2) of the Government Code, regardless of whether the officer elected under section 552.024. With the exception of the highlighted post office box numbers, the city must withhold the home addresses and telephone numbers of city employees who timely elected confidentiality under section 552.117(a)(1). The remaining 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, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tp

Ref: ID# 398371

Enc. Submitted documents

c: Requestor
(w/o enclosures)