



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 1, 2011

Mr. James R. Evans  
Hargrove & Evans, L.L.P.  
Building 3, Suite 400  
4425 Mopac South  
Austin, Texas 78735

OR2011-04488

Dear Mr. Evans:

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# 413274.

The Lavaca County Appraisal District (the "district"), which you represent, received a request for the first and last name, job title, age, gender, ethnicity, start date, and gross pay for each district employee from 2006 through 2010. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. You have notified the employees whose information is at issue of their right to submit comments to this office pursuant to section 552.304 of the Government Code. *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note you have not submitted the requested gender, ethnicity, start date, or gross pay information. To the extent information responsive to these portions of the request existed on the date the district received the request, we assume you have released it. If you

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<sup>1</sup>As of the date of this letter, we have not received any arguments from any of the interested employees regarding the requested information.

<sup>2</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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).

Next, we note the requestor only seeks the first and last name, job title, gender, age, ethnicity, start date, and gross pay for each district employee from 2006 through 2010. Thus, the submitted home addresses we have marked are not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the district is not required to release non-responsive information in response to this request.

Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Having carefully reviewed the information at issue, we agree the birth dates you have marked must be withheld under section 552.102(a) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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](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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 413274

Enc. Submitted documents

c: Requestor  
(w/o enclosures)