



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 3, 2011

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3RD Floor
Fort Worth, Texas 76102

OR2011-05990

Dear Ms. Byles:

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# 416421 (Fort Worth PIR No. W006779).

The Fort Worth Human Relations Unit (the "unit")¹ received a request for "copies of all documents maintained by the [unit] in connection with the complaints brought by" the requestor's client, and a list of any documents the unit is withholding from disclosure. You ask whether the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception and reviewed the submitted information.

You state, and we agree, the submitted information reflects it was compiled by the unit in the course of its investigation of an employment discrimination claim filed under section 21.201 of the Labor Code. *See* Labor Code § 21.201 (person claiming to be aggrieved by unlawful employment practice or person's agent may file complaint with Texas Workforce Commission (the "TWC")). You state the unit was created under chapter 21 of the Labor Code. *See id.* § 21.152 (providing for creation of local commissions). We also understand that, pursuant to chapter 21, both the Equal Employment Opportunity Commission and the TWC have deferred jurisdiction to hear complaints to the unit. *See id.* § 21.154(a) (authorizing deferral of jurisdiction to local commissions); *see also* 40 T.A.C. § 819.76 (authorizing workshare agreements between the TWC and local commissions). Thus, under section 21.152 of the Labor Code, the unit is a local agency authorized to investigate and resolve complaints of employment discrimination. *See* Labor Code §§ 21.154(a) (authorizing local commission to which complaint is referred or jurisdiction is deferred to

¹You inform our office the unit was previously named the Fort Worth Community Relations Department.

receive, investigate, conciliate, or rule on complaint), 21.204 (relating to investigation of complaints by the TWC).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 21.304 of the Labor Code, which relates to public release of information obtained by the TWC. Section 21.304 provides:

An officer or employee of the [TWC] may not disclose to the public information obtained by the [TWC] under Section 21.204 except as necessary to the conduct of a proceeding under this chapter.

Labor Code § 21.304. We note, however, the requestor's client is a party to the complaint filed under section 21.201 of the Labor Code. Section 21.305 of the Labor Code concerns the release of records to a party to a complaint filed under section 21.201 of the Labor Code and provides:

(a) The [TWC] shall adopt rules allowing a party to a complaint filed under Section 21.201 reasonable access to [TWC] records relating to the complaint.

(b) Unless the complaint is resolved through a voluntary settlement or conciliation, on the written request of a party the executive director shall allow the party access to the [TWC's] records:

(1) after the final action of the [TWC]; or

(2) if a civil action relating to the complaint is filed in federal court alleging a violation of federal law.

Id. § 21.305. You do not indicate the complaint was resolved through a voluntary settlement or conciliation agreement. You state, and the requestor provides documentation showing, the requestor is the defendant in a civil action in federal court relating to the complaint and alleging a violation of federal employment law. Thus, we find the requestor has a right of access to the submitted information under section 21.305 of the Labor Code.

You also raise section 552.101 of the Government Code in conjunction with common-law privacy, and we understand the unit seeks to withhold a social security number you have marked under section 552.147 of the Government Code.² However, these sections are

²Section 552.101 also encompasses the common-law right to privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Section 552.147 of the Government Code excepts the social security number of a living person. Gov't Code § 552.147.

general exceptions to disclosure under the Act and do not have their own release provisions. A specific statutory right of access prevails over common law or a general exception to disclosure under the Act. *See Gallagher Headquarters Ranch Dev., Ltd. v. City of San Antonio*, 269 S.W.3d 628, 637 (Tex. App.—San Antonio 2008, pet. filed) (when statute directly conflicts with common law principle or claim, statutory provision controls and preempts common law; legislature may enact legislation that preempts or supersedes common law principle); *see also* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Because the requestor in this instance has a statutory right of access to the requested information, the unit may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy or the information it has marked under section 552.147 of the Government Code. The unit must release the submitted information.³

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

³Because the information being released in this instance is information that is confidential with respect to the general public, if the unit receives another request for this information from an individual other than this requestor, the unit must again seek a ruling from this office.

Ref: ID# 416421

Enc. Submitted documents

c: Requestor
(w/o enclosures)