



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 20, 2011

Mr. Warren M. S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2011-07141

Dear Mr. Ernst:

This office received a request for review of the redaction of certain information subject to the Public Information Act (the "Act"), chapter 552 of the Government Code. The request for review was assigned ID# 418679.

The City of Dallas (the "city") received a request for copies of all election ballot applications submitted by city council and mayoral candidates during February. The city released most of the information responsive to the request. Pursuant to section 552.024(c)(2) of the Government Code, the city redacted certain information it determined to be subject to section 552.117 of the Government Code without requesting a decision from this office. Pursuant to section 552.1175(f) of the Government Code, the city also redacted information it determined to be subject to section 552.1175(b) without requesting an opinion from this office. Pursuant to section 552.024(c-1) and section 552.1175(g), the requestor has asked this office to review the redacted information and render a decision as to whether this information is excepted from disclosure under sections 552.117 and 552.1175. We have considered the city's position and reviewed the redacted information.

Initially, we note, and you acknowledge, the applications are subject to section 1.012 of the Election Code, which provides in relevant part as follows:

- (a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

...

(c) Except as provided by this code or Chapter 552, Government Code, all election records are public information.

(d) In this code, "election record" includes:

...

(3) a certificate, application, notice, report, or other document or paper issued or received by government under this code.

Elec. Code § 1.012(a), (c), (d)(3). "An application for a place on [an election] ballot . . . is public information immediately on its filing." *Id.* § 141.035. Therefore, under section 1.012(a), the applications shall be made available to the public, except as provided by the Act. Accordingly, we will address the city's arguments against disclosure of the information it redacted in the applications under sections 552.117 and 552.1175.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). Information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or 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 information. Open Records Decision No. 530 at 5 (1989). However, section 552.117 applies only to records that a governmental body holds in an employment capacity. *See* Gov't Code § 552.117 (providing that employees of governmental entities may protect certain personal information in hands of their employer); *see also id.* § 552.024 (providing that employees may elect with main personnel officer of employing governmental body); Open Record Decision Nos. 532 (1989) (stating purpose of predecessor statute of section 552.117 is to protect certain information during and after employment relationship), 530 (1989) (discussing interplay between sections 552.024 and 552.117), 455 (1987). In this instance, the applications are election records the city is maintaining in accordance with the Election Code, not employment records. Thus, the city may not withhold the home addresses and telephone numbers it redacted in Exhibit B under section 552.117(a)(1) of the Government Code and this information must be released.

Section 552.1175 of the Government Code provides in pertinent part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Thus, section 552.1175 protects the home address and telephone number, social security number, or family member information of certain classes of individuals who request this information be kept confidential in accordance with section 552.1175(b). Unlike section 552.117, which applies only to records that a governmental body holds in an employment capacity, section 552.1175 applies to any records maintained by a governmental body. The city redacted the home address of the city's former chief of police from the application in Exhibit C. However, you do not state, nor do any of the submitted records reflect, the former chief is currently a peace officer as defined by article 2.12, or that he elected confidentiality for his personal information in accordance with section 552.1175(b). We note that unlike section 552.024, which requires an employee to make an election within certain time periods, the confidentiality provided by section 552.1175 is not subject to time restrictions. Therefore, the date upon which an election is made under section 552.1175 is not relevant. Accordingly, if the former chief is a peace officer pursuant to article 2.12 and he elects to restrict access to his home address under section 552.1175(b), the city must withhold his home address under section 552.1175(b). Otherwise, the city must release the former chief's home address.

In summary, the city must release the home addresses and telephone numbers it redacted in Exhibit B. If the former chief is a peace officer and elects to restrict access to his home address under section 552.1175(b) of the Government Code, the city must withhold his home address under section 552.1175(b). Otherwise, his home address 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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eeg

Ref: ID# 418679

Enc. Submitted documents

c: Requestor  
(w/o enclosures)