



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 23, 2011

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2011-07219

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# 418347 (Fort Worth PIR# W007167).

The City of Fort Worth (the "city") received a request for all information related to a specified investigation involving the requestor's client that was conducted by the city's Human Relations Division (the "division"). You state you will release some of the responsive information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information reflects that it was compiled by the division 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 ("TWC")). We understand that the division 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 division. *See id.* § 21.154 (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 division is a local agency

authorized to investigate and resolve complaints of employment discrimination. *See* Labor Code §§ 21.154 (authorizing local commission to which complaint is referred or jurisdiction is deferred to receive, investigate, conciliate, or rule on complaint), .204 (relating to investigation of complaints by the TWC).

Section 552.101 excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses information that other statutes make confidential. Section 21.304 of the Labor Code, which relates to public release of information obtained by the TWC, provides as follows:

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, that the requestor is the attorney of 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 as follows:

(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.

Labor Code § 21.305. The requestor provides documentation showing final agency action has been taken in this case. The city does not indicate the complaint was resolved through a voluntary settlement or conciliation agreement. Thus, we find the requestor has a right of access to the submitted information under section 21.305.

The city asserts portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy and sections 552.136 and 552.147 of the Government Code. However, these sections are general exceptions to disclosure under the Act. A specific statutory right of access prevails over the common law and general exceptions to disclosure under the Act. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision

controls and preempts common law only when statute directly conflicts with common law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law); *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 city may not withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy or sections 552.136 and 552.147 of the Government Code.

We note a portion of the submitted information contains Texas motor vehicle record information subject to section 552.130 of the Government Code.<sup>1</sup> A specific statutory right of access prevails over general exceptions to disclosure under the Act. ORD 451 at 4. However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Accordingly, we must address the conflict between the access provided under section 21.305 of the Labor Code and the confidentiality provided under section 552.130. As stated above, where information falls within both a general and a specific provision, the specific provision typically prevails as an exception to the general provision. *See* Gov't Code § 311.026(b); *City of Lake Dallas v. Lake Cities Mun. Util. Auth.*, 555 S.W.2d 163, 168 (Tex. Civ. App.—Fort Worth 1977, writ ref'd n.r.e.). In this instance, section 21.305 generally applies to any type of record contained in division complaint records. Section 552.130 specifically protects Texas motor vehicle record information. Thus, we conclude section 552.130 is more specific than the general right of access provided under section 21.305 of the Labor Code. We therefore conclude, notwithstanding section 21.305, the city must withhold the Texas driver's license information we have marked under section 552.130 of the Government Code.<sup>2</sup> As no further exceptions against disclosure are raised, the remaining information must be released to this requestor.<sup>3</sup>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note that the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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# 418347

Enc. Submitted documents

c: Requestor  
(w/o enclosures)