



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 9, 2011

Ms. Lisa D. Mares
Taylor Olson Adkins Sralla Elam L.L.P.
6000 Western Place Suite 200
I-30 at Bryant-Irvin Road
Fort Worth, Texas 76107-4654

OR2011-08216

Dear Ms. Mares:

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# 425294.

The City of Weatherford (the "city"), which you represent received a request for sixteen categories of information relating to the city's fire department.¹ You state some of the requested information has been released. You inform us the city will redact some responsive information pursuant to section 552.147(b) of the Government Code and Open Records Decision No. 684 (2009).² You claim other responsive information is excepted from disclosure under sections 552.102 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

¹You inform us the city sought clarification of this request and received a response from the requestor. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including Texas driver's license and license plate numbers under section 552.130 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code.

Section 552.102(a) of the Government Code 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. *See Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). We agree the birth dates of city employees must be withheld under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the officer complies with sections 552.024 or 552.1175 of the Government Code. *See* Gov’t Code § 552.117(a)(2). We note a post office box number is not a “home address” for purposes of section 552.117.³ Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure. Thus, to the extent the submitted information consists of the home addresses and telephone numbers of peace officers, as defined by article 2.12, the information must be withheld under section 552.117(a)(2) of the Government Code.

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 official or employee of a governmental body who requests this information be kept confidential under section 552.024. *See* Gov’t Code §§ 552.117(a)(1), .024. 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). Therefore, 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 the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request confidentiality under section 552.024. Thus, the home addresses and telephone numbers of current or former city officials or employees must be withheld under section 552.117(a)(1) to the extent the officials or employees concerned timely requested confidentiality for their home addresses and telephone numbers under section 552.024.

In summary, the city must withhold (1) the birth dates of city employees under section 552.102(a) of the Government Code; (2) the home address and telephone number of

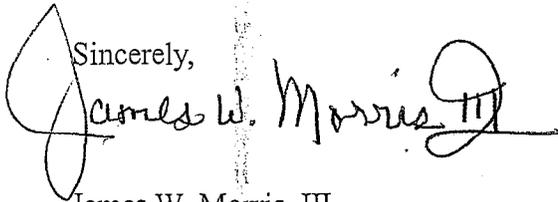
³*See* Open Records Decision No. 622 at 4 (1994) (legislative history makes clear purpose of Gov’t Code § 552.117 is to protect public employees from being harassed *at home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985)) (emphasis added).

a peace officer under section 552.117(a)(2) of the Government Code; and (3) the home addresses and telephone numbers of current or former city officials or employees under section 552.117(a)(1) of the Government Code to the extent the officials or employees concerned timely requested confidentiality for their home addresses and telephone numbers under section 552.024 of the Government Code. The rest of the information at issue 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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, stylized initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 425294

Enc: Submitted documents

c: Requestor
(w/o enclosures)