



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2011

Ms. Margo Kaiser
Staff Attorney
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2011-11623

Dear Ms. Kaiser:

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# 426675 (TWC Tracking No. 110524-005).

The Texas Workforce Commission (the "commission") received a request for "information regarding any previous and current pending [1]iability or legal claims against" a named individual, who is the city manager for a named city. You state the commission will redact information pursuant to Open Records Decision No. 684 (2009).¹ You claim that the

¹This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision, including: direct deposit authorization forms under section 552.101 of the Government Code in conjunction with common-law privacy; a Form I-9 and attachments under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code; W-2 and W-4 forms under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code; a certified agenda and tape of a closed meeting under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code; a fingerprint under section 552.101 in conjunction with section 560.003 of the Government Code; L-2 and L-3 declarations under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code; a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number under section 552.130 of the Government Code; a credit card number, debit card number, charge card number, insurance policy number, bank account number, and bank routing number under section 552.136 of the Government Code; an e-mail address of a member of the public under section 552.137 of the Government Code; and a Form DD-214 or other military discharge record that is first recorded or first comes into the possession of a governmental body on or after September 1, 2003 under section 552.140(b) of the Government Code.

requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.² We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information other statutes make confidential. Pursuant to section 21.204 of the Labor Code, the commission may investigate a complaint of an unlawful employment practice. *See* Labor Code § 21.204; *see also id.* §§ 21.0015 (powers of Commission on Human Rights under Labor Code chapter 21 transferred to commission's civil rights division), .201. Section 21.304 of the Labor Code provides that "[a]n officer or employee of the commission may not disclose to the public information obtained by the commission under Section 21.204 except as necessary to the conduct of a proceeding under [chapter 21 of the Labor Code]." *Id.* § 21.304.

You state the information at issue pertains to a complaint of unlawful employment discrimination that was investigated by the commission under section 21.204 and on behalf of the Equal Employment Opportunity Commission. Based on your representation, we find section 21.304 of the Labor Code is applicable to the information at issue. We note, however, the named city is a party to the complaint at issue. In comments submitted to our office, the requestor contends he has a right of access to this information as the mayor pro tem and council member for the named city. Section 21.305 of the Labor Code addresses the release of commission records to a party to a complaint filed under section 21.201 of the Labor Code and provides as follows:

- (a) The commission shall adopt rules allowing a party to a complaint filed under Section 21.201 reasonable access to commission 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 commission records:
 - (1) after the final action of the commission; or
 - (2) if a civil action relating to the complaint is filed in federal court alleging a violation of federal law.

²This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Id. § 21.305. Pursuant to section 552.303 of the Government Code, we asked the commission whether the commission had taken final action with respect to the complaint at issue.³ In response, you informed our office that the complaint at issue was pending at the time the commission received the present request for information. Additionally, there is no indication that a civil action relating to the complaint has been filed in federal court. As such, we find the requestor does not have access to the information at issue under section 21.305. Therefore, we conclude the commission must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 21.304 of the Labor Code.⁴

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 426675

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³See Gov't Code §552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice).

⁴As our ruling is dispositive, we need not address your remaining arguments against disclosure.