



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2012

Ms. Elisabeth D. Nelson
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2012-05560

Dear Ms. Nelson:

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# 450869.

The Lewisville Independent School District (the "district"), which you represent, received a request for all travel expenses for which a former district board member sought reimbursement, her annual compensation, and the tax rate during a specified time period. You state that the district has no responsive information for the portion of the request pertaining to the board member's annual compensation because the district's board members serve without compensation.¹ You also state that a portion of the requested information has been made available to the requestor. You state the district has redacted bank account and routing numbers, full and partial credit card numbers, Texas license plate numbers, and personal e-mail addresses pursuant to Open Records Decision No. 684 (2009) and personal information of current and former employees subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.² You claim that the

¹The Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992) 555 at 1(1990).

²We note this office issued Open Records Decision No. 684, a previous determination to all governmental bodies, which authorizes the withholding of ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, credit card, bank account, and bank

remaining submitted information is excepted from disclosure under sections 552.101, 552.117, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

Initially, you inform us the information in Exhibit B-1 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-16490 (2010). In that ruling, we determined the district must withhold certain personal financial information under section 552.101 in conjunction with common-law privacy, personal information under section 552.117 of the Government Code, motor vehicle record information under section 552.130 of the Government Code, certain access device numbers under section 552.136, and personal e-mail addresses under section 552.137 of the Government Code. You state the law, facts, and circumstances on which the prior ruling was based have not changed. Thus, we agree the district must continue to rely on Open Records Letter No. 2010-16490 with respect to the information in Exhibit B-1. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, you have marked some of the submitted information in Exhibit B-2 as non-responsive because those portions do not pertain to expenses incurred on behalf of the named board member or those portions pertain in part to personal expenditures by the named board member for which she did not seek reimbursement from the district. Upon review, we agree the information you have marked is non-responsive to this request. Accordingly, the district

numbers under section 552.136 of the Government Code, and personal email addresses of members of the public under section 552.137 of the Government Code without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.136 to allow a governmental body to redact the information described in subsection 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(e). Thus, the statutory amendment to section 552.136 of the Government Code supercedes Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsection 552.136(a) in accordance with section 552.136, not Open Records Decision No. 684. Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. Gov't Code § 552.117(a). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

need not release this non-responsive information and this ruling will not address that information.⁴

Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for information is made. *See* Open Records Decision No. 530 at 5 (1989). 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 on which the request for information was made. 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. You have marked information in Exhibit B-4 that is subject to section 552.117. Therefore, to the extent the individual whose information is at issue timely requested confidentiality under section 552.024, the district must withhold the marked information under section 552.117 of the Government Code. To the extent the individual did not make a timely election under section 552.024, the district may not withhold the marked information under section 552.117 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1), (2). Accordingly, the district must withhold the license plate numbers you have marked in Exhibit B-3 pursuant to section 552.130 of the Government Code. However, we find the district has failed to demonstrate the applicability of section 552.130 to the remaining information you have marked in Exhibit B-3 and may not withhold this information, which we have marked for release, on that basis.

Section 552.136 of the Government Code provides “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b). An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *See id.* § 552.136(a) (defining “access device”). Accordingly, the district must withhold the information you have highlighted in yellow in Exhibits B-2, B-3, and B-4 under section 552.136 of the Government Code.

⁴As our ruling is dispositive for this information, we need not address your argument against its disclosure.

In summary, the district must continue to rely on Open Records Letter No. 2010-16490 with respect to the information in Exhibit B-1. The district must withhold (1) the information you have marked in Exhibit B-4 under section 552.117(a)(1) of the Government Code to the extent the individual whose information is at issue timely requested confidentiality under section 552.024; (2) with the exception of the information we have marked for release, the information you have marked in Exhibit B-3 under section 552.130 of the Government Code; and (3) the information you have marked in Exhibits B-2, B-3, and B-4 under section 552.136 of the Government Code. The remaining information 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/sdk

Ref: ID# 450869

Enc. Submitted documents

c: Requestor
(w/o enclosures)