



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 19, 2012

Ms. Erin A. Higginbotham
Counsel for the City of Carrollton
Denton, Navarro, Rocha & Bernal
2500 West William Cannon, Suite 609
Austin, Texas 78745

OR2012-11172

Dear Ms. Higginbotham:

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# 459360.

The City of Carrollton, (the "city"), which you represent, received a request for a spreadsheet containing sixteen categories of information for each city employee including employee number; first, middle, and last name; birth date; job-code description; department name; pay rate; salary; employee status; hire date; e-mail address; sex or gender; and ethnicity or race. You claim that the submitted information is excepted from disclosure under sections 552.102 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state you have already released some of the submitted information to the requestor, but the release was done in error. Section 552.007 of the Government Code provides, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the city may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential by law. You seek to withhold the information at issue under sections 552.102 and 552.152 of the Government Code. Because sections 552.102 and 552.152 make information confidential by law, we will consider the applicability of these sections to the previously released information as well as to the information that was not released.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. Upon review, we find you have not demonstrated release of the submitted information would subject an employee or officer to a specific substantial risk of physical harm. Accordingly, the city may not withhold any of the submitted information under section 552.152 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 has 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.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the city must withhold the dates of birth, which you have marked, under section 552.102(a) 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,



Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/eb

Ref: ID# 459360

Enc. Submitted documents

c: Requestor
(w/o enclosures)