



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2012

Ms. Elizabeth S. Horn
Assistant City Attorney
City of Carrollton
1945 East Jackson Road
Carrollton, Texas 75006

OR2012-12372

Dear Ms. Horn:

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# 465692.

The City of Carrollton (the "city") received a request for information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

You argue some of the information you have highlighted is excepted from disclosure pursuant to the case of *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court finds that legitimate law enforcement interests exist to withhold certain information related to active criminal cases). In this regard, we understand you to argue the information at issue is excepted under section 552.101 of the Government Code as information made confidential by judicial decision. However, *Houston Chronicle* did not determine the confidentiality of any information for purposes of section 552.101. *See*

¹Although you raise section 552.101 of the Government Code in conjunction with the Texas Supreme Court decision in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010) for the birth date in the submitted information, we understand you to raise section 552.102(a) of the Government Code, as that is the proper exception to raise for this information.

Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987), 465 at 4-5 (1987) (confidentiality protected by section 552.101 requires express language making certain information confidential or requires that information not be released to public). Accordingly, we determine none of the submitted information may be withheld under section 552.101 in conjunction with the court's holding in *Houston Chronicle*.

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 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. *Tex. Comptroller of Pub. Accounts*, 354 S.W.3d 336. In this instance, the highlighted birth date pertains to a private citizen. Therefore, we conclude the city may not withhold the highlighted birth date under section 552.102(a).

You also raise section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, and a personal identification document issued by an agency of this state or another state or country. Gov't Code § 552.130. However, upon review, none of the submitted information contains motor vehicle record information. Consequently, section 552.130 does not apply.

Section 552.147(a) of the Government Code provides that the social security number of a living person is excepted from required public disclosure under the Act. *Id.* § 552.147(a). Accordingly, the city may withhold the highlighted social security number under section 552.147.²

In summary, the city may withhold the highlighted social security number under section 552.147 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

²We note section 552.147(b) of the Government Code 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. Gov't Code § 552.147(b).

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, consisting of several overlapping, sweeping strokes that form a cursive-like shape.

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 465692

Enc. Submitted documents

c: Requestor
(w/o enclosures)