



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2012

Mr. David C. Schulze
Interim General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2012-12374

Dear Mr. Schulze:

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# 461159 (DART ORR 9060).

Dallas Area Rapid Transit ("DART") received a request for information related to the employment status of a named officer and his whereabouts. You claim some of the submitted 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 submitted information.

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. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). We agree DART must withhold the officer's date of birth, which we have marked, under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer made an

election under sections 552.024 or 552.1175 of the Government Code to keep such information confidential. Gov't Code § 552.117(a). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Section 552.117 encompasses personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (statutory predecessor to Gov't Code § 552.117 not applicable to numbers for cellular mobile telephones installed in county officials' and employees' private vehicles and intended for official business). Accordingly, DART must withhold the information we have marked under section 552.117(a)(2), except that the marked cellular telephone number may be withheld only if the cellular service is not paid for by a governmental body.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).¹ Gov't Code § 552.137(a)-(c). We note the remaining information includes the officer's personal e-mail address, which is not of a type specifically excluded by section 552.137(c). Accordingly, DART must withhold the e-mail address we have marked under section 552.137, unless the officer affirmatively consents to disclosure of his e-mail address.

In summary, DART must withhold the officer's date of birth, which we have marked, under section 552.102(a) of the Government Code. DART must withhold the information we have marked under section 552.117(a)(2) of the Government Code, except that the marked cellular telephone number may be withheld only if the cellular service is not paid for by a governmental body. Additionally, DART must withhold the marked e-mail address under section 552.137 of the Government Code, unless the officer consents to the release of his e-mail address. 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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, appearing to read 'Ana Carolina Vieira', with a long horizontal flourish extending to the right.

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 461159

Enc. Submitted documents

c: Requestor
(w/o enclosures)