



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 21, 2012

Mr. Michael Lee Garza
Assistant Criminal District Attorney
Hidalgo County
100 North Closner, Room 303
Edinburg, Texas 78539

OR2012-15051

Dear Mr. Garza:

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# 466273.

Hidalgo County (the "county") received a request for the telephone numbers of members of the board of the county's commuter rail district (the "board members"). You state the county has no responsive information related to one of the board members.¹ You claim some of the requested information is excepted from disclosure under section 552.117 of the Government Code. You state release of the remaining requested information might implicate the interests of some of the board members. Accordingly, you notified those individuals of the request and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). As of the date of this letter, we have not received comments from any of the board members. We have reviewed the submitted information.

Section 552.117(a)(1) 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

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App. – San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

body who request this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *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 of the governmental body's receipt of the request for the information. Section 552.024 authorizes a governmental body to redact from public release the home address and telephone number, emergency contact information, and social security number of a current or former official or employee excepted from disclosure under section 552.117(a)(1) without the necessity of requesting a decision from this office under the Act, if the employee timely elected to withhold such information. *See* Gov't Code §§ 552.024(a)-(c), .117(a)(1).

You state one board member made a timely election under section 552.024, and the county has withheld his information subject to section 552.117(a)(1) of the Government Code. You explain the remaining board members did not make a request for confidentiality under section 552.024 prior to the date of the county's receipt of the request for the information. Accordingly, the county may not withhold the telephone numbers of those individuals under section 552.117(a)(1). The submitted information must therefore be released to the requestor.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/eb

Ref: ID# 466273

Enc. Submitted documents

c: Requestor
(w/o enclosures)