



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2012

Ms. Christina A. Tillett
Counsel for the City of Bonham
Munson, Munson, Cardwell, & Tillett, P.C.
123 South Travis
Sherman, Texas 75090-5928

OR2012-15559

Dear Ms. Tillett:

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# 466410.

The City of Bonham (the "city"), which you represent, received a request for the names and resumes of the finalists for the position of City Manager. You claim the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.137 of the Government Code. You also state release of the submitted information may implicate the interests of the finalists. Accordingly, you state, and provide documentation showing, you notified the finalists of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information does not consist of the requested names and resumes of the finalists. This information is not responsive to the instant request. The city need not release nonresponsive information in response to this request, and this ruling will not address that information.

¹As of the date of this letter, we have not received comments from any of the finalists.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses the doctrine of common-law privacy. Common-law privacy protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. We note the names, addresses, and telephone numbers of members of the public are generally not highly intimate or embarrassing. *See* Open Records Decision Nos. 551 at 3 (1990) (disclosure of person’s name, address, or telephone number not an invasion of privacy), 455 at 7 (1987) (home addresses, telephone numbers, dates of birth not protected under privacy).

Upon review, we find you have failed to demonstrate how any of the responsive information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold any portion of the responsive information under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, social security number, emergency contact information, and family member information of a current or former official or employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code. *See* Gov’t Code §§ 552.117, .024. 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). Thus, 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. We note the responsive information pertains to applicants who are not current or former employees of the city. Accordingly, section 552.117(a)(1) is not applicable to any of the responsive information, and the city may not withhold it under section 552.117(a)(1) of the Government Code.

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). *See* Gov’t Code § 552.137(a)-(c). We note section 552.137 does not apply to a government employee’s work e-mail address because such an address is not that of the employee as a “member of the public,” but is instead the address of the individual as a government employee. The e-mail

addresses we have marked do not appear to be of a type specifically excluded by section 552.137(c). Accordingly, the city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their release. As no other exceptions have been raised, the remaining responsive 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 466410

Enc. Submitted documents

c: Requestor
(w/o enclosures)