



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 1, 2013

Mr. Jeffrey W. Giles  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368

OR2013-19081

Dear Mr. Giles:

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# 504397 (GC No. 20754).

The City of Houston (the "city") received a request for the official schedule for Mayor Annise Parker from January 3, 2013 through the date of the request. You claim some of the submitted information is not subject to the Act or is excepted from disclosure under sections 552.102 and 552.117 of the Government Code. We have considered your arguments and reviewed the submitted information.

You argue portions of the submitted information are not subject to the Act. The Act is applicable only to "public information." See Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You state portions of the submitted information contain references to private or personal activities, which are unrelated to city business. Based on your representations and our review, we agree the information which pertains to private or personal activities does not constitute public information for the purposes of section 552.002. See Open Records Decision No. 635 at 4 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). As such, this information is not subject to the Act, and the city need not release it in response to this request.

Section 552.102 of the Government Code exempts 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) exempts 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). Upon review, we agree the city must withhold the information you have marked under section 552.102 of the Government Code.

Section 552.117(a)(1) exempts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. See Gov't Code § 552.117(a)(1). 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 be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official 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. You inform us the employees whose information is at issue timely elected confidentiality under section 552.024. Therefore, the city must withhold the information you have marked under section 552.117(a)(1) of the Government Code.

In summary, the references to personal activities are not subject to the Act and the city is not required to release them in response to a request for information. The city must withhold the information you have marked under sections 552.102(a) and 552.117(a)(1) of the Government Code. The city must release the remaining information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thana Hussaini', with a horizontal line drawn through it.

Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/som

Ref: ID# 504397

Enc. Submitted documents

c: Requestor  
(w/o enclosures)