



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 4, 2014

Ms. Valecia R. Tizeno
City Attorney
City of Port Arthur
P.O. Box 1089
Port Arthur, Texas 77641-1089

OR2014-02131

Dear Ms. Tizeno:

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# 513002.

The City of Port Arthur (the "city") received a request for payroll information pertaining to a specified individual and documents related to unspecified individuals. You claim 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.

Initially, you inform us the city requested clarification of a portion of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). We understand the city has not received a response to its request for clarification. Accordingly, the city has no obligation at this time to release any information that might be responsive to this portion of the request. However, if the city receives clarification and wishes to withhold any of the information encompassed by the clarified request, the city must request another decision from this office at that time. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 386 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or

narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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). Therefore, the city must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(1) of the Government Code excepts 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. Gov’t Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for information is made. *See Open Records Decision No. 530 at 5 (1989)*. Thus, the city may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date of the governmental body’s receipt of the request for information. You state, and provide documentation showing, the employee whose information is at issue timely elected confidentiality under section 552.024. Therefore, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code.¹

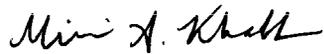
In summary, the city must withhold the date of birth we have marked under section 552.102(a) of the Government Code and the information we have marked under section 552.117(a)(1) of the Government Code. The remaining information must be released.

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.

¹We note section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official whose information is at issue timely chooses not to allow public access to the information. *See* Gov’t Code § 552.024(c)(2).

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, 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,



Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 513002

Enc. Submitted documents

c: Requestor
(w/o enclosures)