



May 26, 1999

Mr. Ronald J. Neiman
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR99-1458

Dear Mr. Neiman:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124990.

The City of Lewisville (the "city") received a request for "any documents produced from October 1, 1998 until present as a result of an investigation involving Lewisville Fire Chief Randy Corbin, Assistant Fire Chief John Linstrom, and any others implicated in the investigation." You have released certain documents to the requestor, but contend that portions of the remaining requested information is excepted from public disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and reviewed the documents submitted.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 of the Government Code also protects information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. We have reviewed the information and marked private information that must be withheld under section 552.101. The remainder of the information must be released as it deals with work-related matters of public employees, and therefore, is of legitimate public interest.

You also assert that an employee's social security number is excepted from public disclosure under section 552.117 because he has made the requisite election under section 552.024. Section 552.117 of the Government Code excepts from required public disclosure the home addresses, telephone numbers, social security numbers, or information revealing whether a public employee has family members when the public employees request that

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this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold the home telephone number or social security number of a current or former employee or official who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold the information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989). Because the employee has elected to not allow public access to this information in accordance with the procedures of section 552.024 of the Government Code, we believe that the city must withhold his social security number from required public disclosure pursuant to section 552.117.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 124990

Encl.: Marked documents

cc: Mr. Kevin Lahner
131 W. Main Street
Lewisville, Texas 75067
(w/o enclosures)