



October 12, 1999

Ms. Katherine Minter Cary
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR99-2901

Dear Ms. Cary:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128574.

The Office of the Attorney General (the "OAG") received a request for copies of

- 1) the original and all drafts of your petition
- 2) any records relating to each of your 'get acquainted lunches with members of the Capitol press,'
- 3) Greytok's personnel file.

You indicate that you have released all of the information responsive to items one and two and most of the information responsive to item three. However, you seek to withhold two documents in their entirety as well as information that you have redacted from released documents. You assert that the redacted information is excepted from public disclosure under sections 552.101 and 552.117 of the Government Code. You have supplied to this office for review, redacted and unredacted copies of the documents subject to this request. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Title 26 section 6103(a) of the United States Code renders tax return information confidential. The term "return information" includes "the nature, source, or amount of income" of a taxpayer. 26 U.S.C. 6103(b)(2). This term has been interpreted by federal courts to include any information gathered by the Internal Revenue Service regarding a taxpayer's liability under title 26 of the United States Code. *Mallas v. Kolak*, 721 F. Supp 748 (M.D.N.C. 1989). Our office has specifically held that W-4 Forms must be withheld in their entirety. Open Records Decision No. 600 at 9 (1992). Therefore, you must withhold the submitted W-4 Forms.

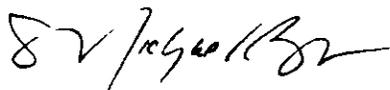
Release of employment eligibility verification form I-9 is governed by title 8, section 1324a of the United States Code. This statute provides that I-9 forms “may not be used for purposes other than for enforcement of [the immigration laws of] this chapter” and for enforcement of other federal statutes governing crime and criminal investigations. 8 U.S.C. § 1324a(b)(5); *see* 8 C.F.R. § 274a.2(b)(4). Release of this document under chapter 552 of the Government Code would not be for a permitted purpose; accordingly, we conclude that the requested I-9 form is confidential and must be withheld under section 552.101 of the Government Code.

Section 552.117 of the Government Code excepts from required public disclosure the home addresses, home telephone numbers, social security numbers, or personal family members information of public employees who request that this information be kept confidential under section 552.024. You represent that the subject employee elected non-disclosure of this information. If that election was made prior to your receipt of the subject request, you must withhold this information. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information if the subject employee elected 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).

We note that the submitted documents include Texas driver’s license numbers. This information is excepted from disclosure under section 552.130 of the Government Code, which governs the release of information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. Texas driver’s license numbers must be withheld under section 552.130.

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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 128574

Encl. Submitted documents

cc: Mr. Stephen Lisson
Initiate !!
P.O. Box 2013
Austin, Texas 78768-2013
(w/o enclosures)