



February 1, 2001

Ms. Teresa R. Navarro  
Elections Administrator  
Hidalgo County Elections Department  
P.O. Box 659  
Edinburg, Texas 78540

OR2001-0391

Dear Ms. Navarro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144308.

The Hidalgo County Elections Department (the “department”) received a request for several categories of information concerning certain election workers for the November 2000 general election. You indicate that you will release the requested information except for the home addresses and telephone numbers of the election workers, which you assert is confidential information under common law privacy and therefore excepted from disclosure. We believe you are asserting section 552.101 of the Government Code as the basis for your contention that this information is excepted from disclosure.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” For information to be protected from public disclosure by the common law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. We have previously stated that, absent some special circumstance, home addresses and telephone numbers are not protected from disclosure by a right of privacy. Open Records Decision Nos. 455 at 6-7 (1987), 169 (1977).

Accordingly, we conclude that the home addresses and telephone numbers of the election workers may not be withheld under section 552.101.

We note however that section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the department may only withhold information under section 552.117 on behalf of current or former county employees or volunteers employed by the county who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. We note that in a letter to this office, the requestor states that in a phone conversation with you on December 12, 2000, you advised the requestor "that the election workers had not signed written confidentiality requests." Thus, for those county employees or volunteers employed by the county who timely elected to keep their personal information confidential, the department must withhold their home addresses and telephone numbers. The department may not withhold this information under section 552.117 for those who did not make a timely election to keep the information confidential.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report

that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/db/seg

Ref: ID# 144308

cc: Ms. Melinda Brunson  
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