



June 8, 2001

Ms. Janice Mullinex
Associate General Counsel
Texas Department of Transportation
125 E. 11th St.
Austin, Texas 78701-2483

2001-2393

Dear Ms. Mullinex:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148127.

The Texas Department of Transportation (the "department") received a request for a complete copy of the application for employment, including the Equal Employment Opportunity data form, of the individual who was hired by the department for a specific job posting number. You contend that some portions of the requested information are excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code. No Equal Employment Opportunity data form accompanies the submitted information, and so we assume that you have already disclosed such form if it exists. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(1) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information 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 officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. The submitted information reveals that the employee whose records are the subject of this request did elect to keep confidential such personal information prior to the date on which the department received the request. Accordingly, the department must withhold those portions of the records that reveal the employee's home address, home telephone number, social security number, and any information indicating that the employee has family members. We have marked those portions of the documentation for your convenience. We note that since section 552.117 is dispositive, we do not address your claim for exception under section 552.101.

Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

The department must withhold the employee's Texas driver's license number under section 552.130. We have marked the Texas driver's license number for your convenience.

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).

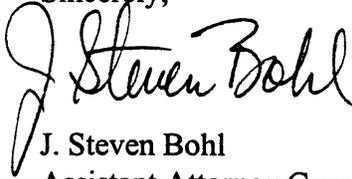
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,

A handwritten signature in black ink that reads "J. Steven Bohl". The signature is written in a cursive style with a large initial "J" and "S".

J. Steven Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref: ID# 148127

Encl: Marked documents

cc: Mr. Frank X. Alvarado
4047 Echo Glen
Dallas, Texas 75244
(w/o enclosures)