



July 16, 2001

Ms. Ann-Marie P. Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2001-3050

Dear Ms. Sheely:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 149496.

The Travis County Human Resources Management Division (the "county") received a written request for, among other things, the job application of the individual selected for the Parks Services Program Manager. You state that the county has released most of the requested application, but contend that certain portions of the application, which you have highlighted, are excepted from required public disclosure pursuant to sections 552.101 and 552.117 of the Government Code.

You first contend that certain salary information pertaining to the applicant is excepted from public disclosure pursuant to section 552.101 of the Government Code. Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including 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. After reviewing the salary information you have highlighted, we conclude that none of this information meets the test for common law privacy. *See Gov't Code § 552.022(a)(2)* (making public salaries of public employees); Open Records Decision No. 455 at 9 (1987) (previous salaries of

applicants for public employment not protected by privacy). Accordingly, we conclude that the salary information you have highlighted must be released to the requestor.

You next contend that certain information contained in the job application at issue is excepted from public disclosure pursuant to section 552.117(1) of the Government Code. Section 552.117(1) excepts from disclosure information that relates to the home address, home telephone number, social security number, and family member information of current or former employees of a governmental body who request that this information remain confidential under section 552.024 of the Government Code. Assuming the hired applicant elected to prohibit the release of his section 552.117(1) information prior to the county's receipt of the current records request, we agree that the county must withhold the section 552.117(1) information you have highlighted. *See* Open Records Decision No. 530 at 5 (1989) (whether particular information is protected by section 552.117(1) must be determined at time request for it is made).

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).

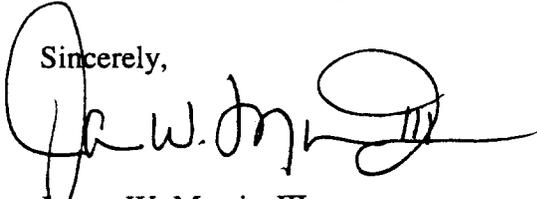
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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, appearing to read 'J.W. Morris, III', with a large, stylized flourish at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/RWP/seg

Ref: ID# 149496

Enc. Submitted documents

c: Mr. Jesus C. Tarin
5205 Meadow Creek Drive
Austin, Texas 78745
(w/o enclosures)