OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

June 3, 2002

Ms. Jo-Christy Brown
Georgetown City Attorney
Brown & Carls
515 Congress Avenue, Suite 2150
Austin, Texas 78701

OR2002-2971

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 163761.

The City of Georgetown (the "city") received a written request for the "city of residency for department heads for" the city. You contend that, with two exceptions, the requested information is excepted from required public disclosure pursuant to section 552.117 of the Government Code.

Section 552.117(1) of the Government Code requires that the city withhold information relating to, among other things, an employee's home address, but only if the employee elected to keep this information confidential in accordance with section 552.024 of the Government Code. We believe that the "city of residency" of city employees constitutes information that "relates" to the employees' home address.

Whether a particular piece of information is protected by section 552.117(1) must be determined at the time the request for the information is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, in order to withhold section 552.117(1) information from the public, a proper election must be made prior to the receipt of the request for information. In this instance, to the extent that the respective employees timely elected to keep their section 552.117 information confidential in accordance with section 552.024, the city must withhold the employees' city of residency pursuant to section 552.117(1) of the Government Code. Otherwise, the city must release this information to the requestor.

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).

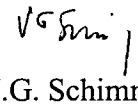
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. 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,



V.G. Schimmel
Assistant Attorney General
Open Records Division

VGS/RWP/sdk

Ref: ID# 163761

Enc: Submitted documents

c: Mr. Tony Plohetski
Austin American-Statesman
203 East Main Avenue
Round Rock, Texas 78664
(w/o enclosures)