



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 1, 2005

Mr. David Caylor  
City Attorney  
City of Irving  
825 W. Irving Blvd.  
Irving, Texas 75060

OR2005-05845

Dear Mr. Caylor:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 227344.

The City of Irving (the "city") received a request for a list of employees who live in the city and a list of employees who do not live in the city. You claim that the submitted information is excepted from disclosure under section 552.117 of the Government Code. We have considered your arguments and have reviewed the submitted information.

Section 552.117(a)(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 of the Government Code. *See* Gov't Code § 552.117(a)(1). In this instance, you state that the requested lists are excepted in their entirety under section 552.117. You acknowledge that the city is aware of two informal letter rulings in which this office addressed similar information. In one ruling, we held that the cities in which sheriff's deputies and corrections officers reside did not, standing alone, constitute those employees' home addresses for purposes of section 552.117. Open Records Letter No. 2004-7692 (2004). In the other ruling, we held that the city council districts in which city employees reside did not, standing alone, reveal the employees' home addresses for purposes of section 552.117. Open Records Letter No. 2003-4017 (2003). You state, however, that the "standing alone" standard articulated in those rulings is much too narrow. Instead you assert that this office should use the "broader" standard articulated in Open Records Decision No. 622 (1994). In that decision, this office held that because an employee's former home address and telephone number are related to the employee's current home address and telephone number, the former home address and telephone number are excepted under section 552.117. In deciding that the information about the former residence

was excepted, this office reasoned that the release of such information would make it easier to find the employee's current home address and telephone number. Based on the language of Open Records Decision No. 622, you state that, in determining whether information is excepted from disclosure under section 552.117, the test should be whether the requested information is at all related to one of the protected pieces of information.

The legislature, in enacting section 552.117, clearly stated that its purpose was to protect public employees from being harassed at *home*. See House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985). (Emphasis added). We acknowledge that the cities in which employees live are related to their home addresses. We note, however, that much of the information a governmental body maintains about its employees is somehow related to the employees' home addresses such that its release would make it easier to find the employees' home addresses. For example, an employee's name is related to his home address and releasing it would make it easier to find where the individual resides. Thus, if the city's test is adopted, a governmental body would be prohibited from releasing any information about its employees for fear that the information would be of assistance in finding the employees' home addresses. Based on our reading of the Act as a whole, we cannot conclude that in enacting section 552.117, the legislature intended to protect all information that could potentially be used by a diligent investigator to uncover the enumerated pieces of information. See, e.g., Gov't Code § 552.022(a)(2) (making certain categories of information of each employee and officer of governmental body "super public" information). Furthermore, courts have agreed that information may not be withheld on the grounds that someone could deduce confidential information from it in light of publicly known information. Cf. *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d at 676 (Tex. 1995) (stating that Tax Code does not preclude release of public information even if person could use it to deduce otherwise privileged information); Gov't Code § 552.204(1) (stating that officer for public information is not responsible for use made of requested information by requestor); Open Records Decision No. 660 (1999). Thus, we cannot conclude that all information that is potentially related to the protected categories is excepted from disclosure under section 552.117. Moreover, after reviewing your arguments for the submitted information, we find that you have not demonstrated that revealing whether your employees live in or outside the city is sufficiently related to their home addresses as to be excepted under section 552.117. Accordingly, the city must release the submitted information.

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).

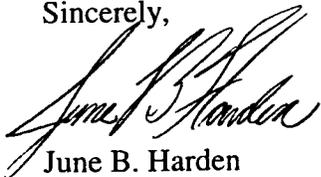
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. Dep't of Pub. 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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/krl

Ref: ID# 227344

Enc. Submitted documents

c: M. A. Stebbins  
c/ o David Caylor  
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(w/o enclosures)