



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 14, 2006

Ms. Diane C. Wetherbee  
City Attorney  
City of Plano  
P. O. Box 860358  
Plano, Texas 75086-0358

OR2006-14701

Dear Ms. Wetherbee:

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#266835.

The City of Plano (the "city") received a request for specified information filed by the city's current city council members during a specified period of time. You claim that a portion of the requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Under chapter 254 of the Election Code, every candidate for public office and officeholder must report (1) the full name and address of any person making contributions that, in the aggregate, exceed fifty dollars in value and (2) political expenditures that, in the aggregate, exceed fifty dollars. *See* Elec. Code §§ 254.001, 254.031; *see also id.* § 254.041 (criminal penalty for improper filing of report), § 254.042 (civil penalty for improper filing of report). Reports filed with the Texas Ethics Commission (the "commission") must be filed by electronic transfer; reports filed with an authority other than the commission must be on a

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

form prescribed by the commission. *Id.* § 254.036(a), (b). For candidates, each report must include (1) the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed, and (2) the campaign treasurer's name, residence or business street address, and telephone number. *Id.* § 254.061. For officeholders, each report must include the officeholder's full name and address and office held. *Id.* § 254.091(1). Generally, a report regarding a statewide office must be filed with the commission, a report regarding a county-level office must be filed with the county clerk, and a report regarding the office of a political subdivision other than a county must be filed with the clerk, secretary, or presiding officer of the governing body of the political subdivision. *Id.* § 254.066 (candidates must file report where campaign treasurer appointment must be filed), § 254.097 (officeholders must file report where campaign treasurer appointment must be filed); *see id.* § 252.005 (where campaign treasurer appointment must be filed). Section 1.012(c) of the Election Code provides that "[e]xcept as otherwise provided by this code or Chapter 552, Government Code, all election records are public information." Under section 1.012(d)(1), an election record is "anything distributed or received by government under this code." *But see* Open Records Decision No. 142 (1976) (under previous version of Election Code and Public Information Act, campaign contribution and expenditure reports were not excepted from disclosure). The submitted information consists of campaign contribution and expenditure reports filed with the city under sections 254.061 and 254.091; therefore, the reports are election records for purposes of section 1.012, and must be released unless an exception under chapter 552 of the Government Code applies.

You seek to withhold the information at issue under section 552.117 of the Government Code. 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. Gov't Code § 552.117(a)(1). We note that section 552.117 only applies to records that the governmental body holds in its capacity as an employer. *See id.* § 552.117 (providing that employees of governmental entities may protect certain personal information in the hands of their employer). In this instance, the submitted campaign contribution and expenditure reports are required to be filed with the city under sections 254.061 and 254.091 of the Election Code. Therefore, the city is not holding these records in its capacity as an employer. Accordingly, the city may not withhold any of the submitted information under section 552.117 of the Government Code. As the city raises no further exceptions against disclosure of the requested information, it must be released 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, 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); *Texas 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 Office of the Attorney General 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,



Holly R. Davis  
Assistant Attorney General  
Open Records Division

HRD/krl

Ref: ID# 266835

Enc. Submitted documents

c: Mr. Kevin McCrea  
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(w/o enclosures)