



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2006

Mr. Joe J. Gorfida, Jr.
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2006-06520

Dear Mr. Gorfida:

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# 252677.

The Denton County Transportation Authority (the "authority"), which you represent, received a request for all employment applications submitted to the authority during 2006. You claim that some of the requested information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

You claim that section 552.130 of the Government Code is applicable to some of the submitted information. This section excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document. *See* Gov't Code § 552.130(a)(1), (3). We have marked information that must be withheld under section 552.130.

¹We 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 (1938), 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.

The submitted information also contains social security numbers. Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.² Therefore, the authority must withhold the social security numbers contained in the submitted information under section 552.147.³

Next, we note that the submitted information contains the applicants’ home addresses, personal phone numbers, and family member information. You do not inform us if any of these applicants were hired by the authority. Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and personal 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. 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). A governmental body may only withhold information under section 552.117(a)(1) if the employee in question made a request for confidentiality under section 552.024 prior to the date on which the request for this information was received. Therefore, if an applicant who was hired by the authority made a timely election under section 552.024, the authority must withhold the applicant’s home address, personal phone number, and family member information under section 552.117(a)(1). However, the authority may not withhold this information under section 552.117 if the applicant was not hired or if a timely election was not made.

In summary, we have marked information that must be withheld under section 552.130. The authority must withhold the social security numbers contained in the submitted information under section 552.147. The home addresses, personal phone numbers, and family member information of the hired applicants must be withheld under section 552.117(a)(1) of the Government Code if that section is applicable. The remaining information must be released.

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

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/eb

Ref: ID# 252677

Enc. Submitted documents

c: Mr. Eli Gemini
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(w/o enclosures)