



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2006

Mr. Dennis J. Eichelbaum
Shwartz & Eichelbaum, P.C.
7400 Gaylord Parkway, Suite 200
Frisco, Texas 75034

OR2006-08669

Dear Mr. Eichelbaum:

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# 255728.

The Bonham Independent School District (the "district"), which you represent, received a request "to view the bank statements and cancelled checks and all items attached or within the monthly bank statements for the [district] general fund or any other district bank account handled by [a named individual] for the previous twelve months." You state that the district will release some of the requested information. You claim that the information at issue is excepted from disclosure under sections 552.102, 552.117, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we address your claim that in this case "the [confidential] information cannot be redacted, because [the requestor] has requested to personally view the original records." We note that the district must not permit the requestor to view original documents containing confidential information. Gov't Code § 552.352. Instead, the district must redact

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 (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.

confidential information to give access to a public record and may charge the requestor for the cost of making a copy of the page from which confidential information must be redacted. *See id.* § 552.271(b).

Next, we address your claim that portions of the information at issue are excepted from public disclosure 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 an individual's personal post office box number is not a "home address" for purposes of section 552.117, and therefore may not be withheld under section 552.117. *See Open Records Decision No. 622 at 4 (1994)* (purpose of section 552.117 is to protect public employees from being harassed at home). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989)*. Thus, the district may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. For those employees who timely elected to keep their personal information confidential, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code.

Next, we note that the submitted documents contain information that is excepted under section 552.130 of the Government Code.² Section 552.130 excepts from disclosure information that "relates to...a motor vehicle operator's or driver's license or permit issued by an agency of this state." Gov't Code § 552.130(a). We have marked the information that the district must withhold pursuant to section 552.130 of the Government Code.

Next, we address your claim under section 552.136 of the Government Code. This section states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. Upon review, we agree that the routing and account numbers we have marked on the submitted checks are excepted from disclosure under section 552.136 of the Government Code. We find, however, that you have failed to establish how any of the remaining information you have marked constitutes access device numbers for the purpose of section 552.136. Accordingly, the district must withhold only the information we have marked pursuant to section 552.136 of the Government Code.

Finally, you assert that the submitted information contains a social security number. Section 552.147 of the Government Code provides that "[t]he social security number of a living

²We note that although you claim that Government Code section 552.102 excepts certain information from disclosure, the correct exception is section 552.130 of the Government Code.

person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. After reviewing the submitted information, we have marked for release the ten-digit number you have highlighted that is not a social security number and is not, therefore, confidential under section 552.147 of the Government Code.

In summary, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code for those employees who timely elected to keep their personal information confidential. The district must also withhold the Texas motor vehicle record information we have marked under section 552.130, and the bank routing and account numbers we have marked under section 552.136 of the Government Code. 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 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,

A handwritten signature in cursive script that reads "Shelli Egger". The signature is written in black ink and is positioned above the typed name.

Shelli Egger
Assistant Attorney General
Open Records Division

SE/sdk

Ref: ID# 255728

Enc. Submitted documents

c: Mr. Press Cox
c/o Dennis J. Eichelbaum
Shwartz & Eichelbaum, P.C.
7400 Gaylord Parkway, Suite 200
Frisco, Texas 75034
(w/o enclosures)