



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2006

Mr. Denis C. McElroy
Assistant City Attorney
Office of the City Attorney
City of Forth Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-14979

Dear Mr. McElroy:

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#267683.

The City of Forth Worth (the "city") received a request for "the entire investigative file" pertaining to a specified investigation. You state that most of the responsive information will be released to the requestor. You further state that the city will redact social security numbers pursuant to section 552.147 of the Government Code.¹ However, you claim that a portion of the submitted information is excepted from disclosure under sections 552.1175 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the information submitted by the city includes Texas motor vehicle record information. In Open Records Letter No. 2006-14726 (2006), we issued a previous determination that authorizes the city to withhold (1) a Texas driver's license number; (2) a Texas-issued state identification number; (3) a Texas license plate number; and (4) a Texas license year of a motor vehicle under section 552.130 of the Government Code without the necessity of again requesting an attorney general decision with regard to the applicability of

¹We 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.

this exception. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (delineating elements of second type of previous determination under Gov't Code § 552.301(a)). Thus, the city must withhold the Texas motor vehicle record information it has marked in accordance with Open Records Letter No. 2006-14726.

You inform us that the submitted information contains information that is excepted from disclosure under section 552.1175 of the Government Code, which applies to peace officers.² Section 552.1175 provides in pertinent part:

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). This provision allows a peace officer who is not employed by the city to elect to restrict access to his home address and telephone number, social security number, and family member information. You inform us that the individuals whose information is at issue are reserve police officers. Thus, to the extent these individuals elect to restrict access to the marked information in accordance with section 552.1175(b), the marked information must be withheld under section 552.1175 of the Government Code.

In summary, the city must withhold the marked information under section 552.130 of the Government Code in accordance with the previous determination issued in Open Records Letter No. 2006-14726 (2006). To the extent the individuals whose information is at issue elect to restrict access to the marked information in accordance with section 552.1175(b), the marked information must be withheld under section 552.1175 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

²"Peace officer" is defined by Article 2.12 of the Texas Code of Criminal Procedure.

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# 267683

Enc. Submitted documents

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