



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2007

Ms. Stephanie S. Rosenberg
General Counsel
Humble Independent School District
P. O. Box 2000
Humble, Texas 77347-2000

OR2007-04806

Dear Ms. Rosenberg:

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 #276856.

The Humble Independent School District (the "district") received two requests for expense reports and supporting receipts pertaining to three named district employees and all board members. You state that you have already released redacted copies of the requested records. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.117, 552.130, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by one of the requestors. *See* Gov't Code § 552.304 (permitting submission of comments as to why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation*

included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Additionally, this office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). However, this office has also found that the public has a legitimate interest in information relating to employees of governmental bodies and their employment qualifications and job performance. *See* Open Records Decision Nos. 562 at 10 (1990), 542 at 5(1990); *see also* Open Records Decision No. 423 at 2 (1984) (scope of public employee privacy is narrow). We have marked portions of the submitted information that must be withheld pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.¹

We next address your argument under section 552.117 of the Government Code. Section 552.117(a)(1) excepts from disclosure the current and former home addresses and telephone 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. Gov't Code § 552.117(a)(1). Whether 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). We note that a post office box number is not a "home address" for the purposes of this exception. *See* Gov't Code § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of section 552.117 is to protect public employees from being harassed at home) (citing 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). You state that each of the district's board members and employees referenced in these records made affirmative elections to keep their home addresses, phone numbers, and family member information confidential prior to the district's receipt of the request. Accordingly, you must withhold the information we have marked pursuant to section 552.117(a)(1) of the Government Code.

Section 552.130 of the Government Code 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 [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. In accordance with section 552.130 of the Government Code, the district must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.

You assert that some of the remaining information is excepted under section 552.136 of the Government Code. Section 552.136(b) states that "[n]otwithstanding any other provision

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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(b). Accordingly, the district must withhold the information we have marked under section 552.136 of the Government Code.

The submitted information also contains an e-mail address that is excepted from disclosure under section 552.137 of the Government Code. Section 552.137 requires a governmental body to withhold the e-mail address of a member of the general public, unless the owner of the address has affirmatively consented to its public disclosure. *See* Gov’t Code § 552.137(b). You do not inform us that the owner of the e-mail address has affirmatively consented to its release. Therefore, the district must withhold the e-mail address we have marked under section 552.137.

In summary, the district must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold the information marked under section 552.117 of the Government Code. The district must withhold the Texas-issued motor vehicle record information marked under section 552.130 of the Government Code. Finally, the district must withhold the account numbers marked under section 552.136 and the personal e-mail address marked under section 552.137 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,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eb

Ref: ID# 276856

Enc. Submitted documents

c: Ms. Tamala Irish
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