



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 12, 2009

Ms. Cynthia S. Martinez
Legal Department
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR2009-00374

Dear Ms. Martinez:

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# 333292.

Capital Metropolitan Transportation Authority (the "authority") received a request for information related to a rideshare van. You claim that portions of the requested information are excepted from disclosure under sections 552.117, 552.130, and 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the information you have submitted.

You claim portions of the submitted information are subject to section 552.117. Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses, 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). Whether a particular piece of information is protected under 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 the protection of section 552.117 is applicable only to information that a governmental body holds in its capacity as an employer.

¹We note section 552.101 of the Government Code does not encompass other exceptions found within the Act.

See Gov't Code § 552.117 (providing that employees of governmental entities may protect certain personal information held by their employers); *see also id.* § 552.024 (establishing election process for Gov't Code § 552.117). In this instance, the information you have marked does not pertain to employees of the authority; therefore, the authority may not withhold any portion of the information you have marked under section 552.117(a)(1).

Next, you claim section 552.130 of the Government Code for portions of the submitted information. 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 [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 authority must withhold the Texas motor vehicle record information we have marked.

You claim the e-mail addresses you have marked are excepted from public disclosure under section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). Section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the individual as a government employee. We note that the e-mail addresses you have marked are all government employees' work e-mail addresses. These types of e-mails may not be withheld under section 552.137; thus, none of the e-mail addresses you have marked may be withheld pursuant to this section.

In summary, the authority must withhold the Texas motor vehicle record information we have marked under section 552.130. 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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 challenge 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/eeg.

Ref: ID# 333292

Enc. Submitted documents

c: Requestor
(w/o enclosures)