



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 6, 2009

Ms. Sara Shiplet Waitt  
Senior Associate Commissioner  
Legal Services Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2009-04508

Dear Ms. Waitt:

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# 339063 (TDI# 86526).

The Texas Department of Insurance (the "department") received a request for agent information from a named individual in the department, a copy of the requestor's complaint, and all department documents that have suggested courses of action concerning the requestor's complaint. You state the department has released some information to the requestor. You state that the department is withholding a social security number pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.111, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by

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<sup>1</sup>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.

judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 59.001 of the Occupations Code provides as follows:

The social security number of an applicant for or holder of a license, certificate of registration, or other legal authorization issued by a licensing agency to practice in a specific occupation or profession that is provided to the licensing agency is confidential and not subject to disclosure under Chapter 552, Government Code.

Occ. Code § 59.001. You indicate that the social security numbers you have marked in the submitted information were obtained in connection with the issuance of an occupational or professional license. Based on this representation, we conclude that the social security numbers you have marked are confidential under section 59.001 of the Occupations Code and must be withheld from disclosure under section 552.101 of the Government Code.

Next, you assert section 552.111 of the Government Code for the information you have marked within the remaining submitted information. The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990). In Open Records Decision No. 615 (1993), this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined that section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* ORD No. 615 at 5. A governmental body’s policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body’s policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body’s policy mission. *See* Open Records Decision No. 631 at 3 (1995). Additionally, section 552.111 does not generally except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); ORD 615 at 4-5.

You state that portions of the remaining information consist of the advice, opinions, and recommendations of department employees involving regulatory matters. Upon review of your representations and the information at issue, we agree that some of the remaining submitted information, which we have marked, consists of the advice, opinions, or recommendations of department employees regarding policymaking matters. However, you have failed to establish that the remaining information you have marked consists of advice,

opinions, or recommendations for purposes of section 552.111. Therefore, section 552.111 is not applicable to the remaining submitted information. Accordingly, the department may only withhold the information we have marked under section 552.111 of the Government Code.

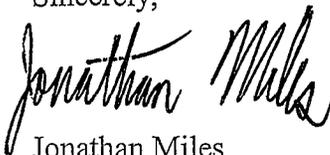
Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the individual consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). You do not inform us that a member of the public has affirmatively consented to the release of any e-mail address. The e-mail addresses you have marked are not of a type specifically excluded by section 552.137(c). Thus, the department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless the individuals to whom the addresses belong consent to their disclosure.

In summary, the department must withhold the social security numbers you have marked under section 552.101 of the Government Code in conjunction with 59.001 of the Occupations Code. The department may withhold the information we have marked under section 552.111 of the Government Code. The department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 339063

Enc. Submitted documents

c: Requestor  
(w/o enclosures)