



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 18, 2009

Ms. Susan Camp-Lee  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2009-06746

Dear Ms. Camp-Lee:

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# 347794.

The City of Hutto (the "city"), which you represent, received a request for information relating to a former employee. You state that some of the requested information either has been or will be released. You claim that other responsive information is excepted from disclosure under sections 552.117, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code §§ 552.024, .117. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request under section 552.024 that the information be kept confidential. You state, and have provided documentation reflecting, that the former

employee to whom the submitted information is related timely requested confidentiality for the information that you have highlighted in yellow. Based on your representation and the submitted documentation, we agree that the city must withhold the yellow-highlighted information under section 552.117(a)(1).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). We agree that the city must withhold the Texas driver's license and motor vehicle information that you have highlighted in green under section 552.130.

Section 552.137 of the Government Code provides that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. *Id.* § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. You state that the owners of the personal e-mail addresses that you have highlighted in pink have not affirmatively consented to the disclosure of their e-mail addresses. Based on your representation, we agree that the city must withhold the pink-highlighted e-mail addresses under section 552.137.

Lastly, we note that the remaining information includes a military discharge record that is subject to section 552.140 of the Government Code.<sup>1</sup> Section 552.140 provides in part:

(a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

*Id.* § 552.140(a). Section 552.140 provides that a military veteran's DD-214 form or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003 is confidential for a period of seventy-five years and may only be disclosed in accordance with section 552.140 or in accordance with a court order. *See id.* § 552.140(a)-(b). In this instance, the city appears to have received the submitted DD-214 form after September 1, 2003. We therefore conclude that the city must withhold the DD-214 form, which we have marked, under section 552.140.

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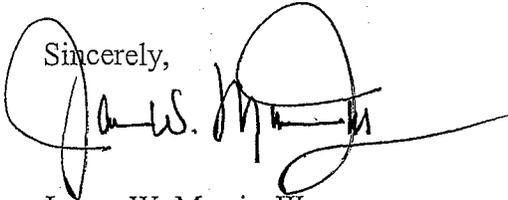
<sup>1</sup>Unlike other exceptions to disclosure under the Act, this office will raise section 552.140 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

In summary: (1) the city must withhold the yellow-highlighted information under section 552.117(a)(1) of the Government Code; (2) the green-highlighted Texas driver's license and motor vehicle information must be withheld under section 552.130 of the Government Code; (3) the pink-highlighted personal e-mail addresses must be withheld under section 552.137 of the Government Code; and (4) the marked DD-214 form must be withheld under section 552.140 of the Government Code. The rest of the submitted 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID#

Enc: Submitted documents

c: Requestor  
(w/o enclosures)