



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 25, 2009

Ms. YuShan Chang  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2009-08806

Dear Ms. Chang:

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# 347217.

The Houston Police Department (the "department") received a request for information concerning a named individual. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You state that portions of the submitted information are subject to the decision in *N.W. Enterprises, Inc. v. City of Houston*, 352 F.3d 162 (5th Cir. 2003). The question in *N.W. Enterprises* was the constitutionality of an ordinance of the City of Houston that regulated sexually-oriented businesses and specified the personal information required of individuals applying for permits to work as managers or entertainers in such businesses. With regard to the required public disclosure under the Act of certain information provided by entertainers and managers in their permit applications, the district court in *N.W. Enterprises* concluded that:

"there is meaningful potential danger to individuals working in sexually oriented businesses if the information in their permit applications is disclosed

to the public. The Court concludes further that the potential for disclosure is likely to have a chilling effect on the applicants' protected speech. These dangerous and chilling effects are sufficiently severe that the information should be held confidential by the city."

*N.W. Enter., Inc. v. City of Houston*, 27 F.Supp.2d 754, 843 (S.D. Tex.1998). In upholding the confidentiality determination of the district court, the United States Court of Appeals for the Fifth Circuit stated that "[b]ecause the district court declared the information on entertainer and manager permit applications confidential under the [Act], the City cannot disclose it to the public." *N.W. Enter.*, 352 F.3d at 195. The appellate court also agreed that the entertainers' and managers' home addresses and telephone numbers were confidential. *Id.* Thus, pursuant to *N.W. Enterprises*, information revealing the identity of an entertainer or manager of a sexually-oriented business, including the entertainer's or manager's home address and telephone number, is generally confidential. Portions of the submitted information reveal the types of information protected in *N.W. Enterprises*. Therefore, this identifying information, which we have marked, must be withheld under section 552.101 in conjunction with the court's holding in *N.W. Enterprises*. However, *N.W. Enterprises* did not address the confidentiality of the remaining information. Therefore, the remaining information is not confidential under the decision in *N.W. Enterprises* and may not be withheld on that basis under section 552.101 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[.]" Gov't Code § 552.130(a)(1). Accordingly, the department must withhold the Texas driver's license information we have marked pursuant to section 552.130.

You claim that some of the remaining information is excepted from disclosure under section 552.147 of the Government Code, which provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act.<sup>1</sup> *Id.* § 552.147. Therefore, the department may withhold the social security number in the remaining information under section 552.147 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with the court's holding in *N.W. Enterprises*. The department must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code, and may withhold the social security number in the remaining information under section 552.147 of the Government Code. The remaining information must be released.

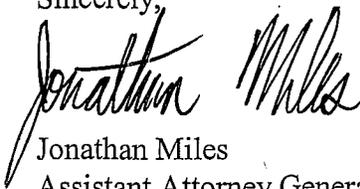
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<sup>1</sup>We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

This 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 cursive script, appearing to read "Jonathan Miles".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 347217

Enc. Submitted documents

c: Requestor  
(w/o enclosures)