



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 24, 2009

Ms. Betsy Loar
Assistant Commissioner and General Counsel
Texas Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699

OR2009-10277

Dear Ms. Loar:

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# 351951.

The Texas Credit Union Department (the "department") received a request for the name, address if the employee consents, date of birth, and address of place of employment of each department employee. You state that you have released the names and address of place of employment for the department employees.¹ You claim that the dates of birth of department employees are excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.103 of the Government Code provides in part:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

Gov't Code § 552.103(a). The purpose of section 552.103 is to protect the litigation interests of governmental bodies that are parties to the litigation at issue. *See id.* § 552.103(a); Open Records Decision No. 638 at 2 (1996) (section 552.103 only protects the litigation

¹ You note the request seeks employee addresses "If participant allows[.]" You state that all employees have opted to protect their addresses from disclosure as permitted by sections 552.024 and 552.117 of the Government Code. Thus, you state that the department will not release the addresses.

interests of the governmental body claiming the exception). To secure the protection of section 552.103 of the Government Code, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 at 1 (1991). You inform us that the information at issue is the subject of a pending civil appeal. However, we note that the department is not a party to the appellate proceeding and therefore does not have a litigation interest in the matter for purposes of section 552.103. Further, you have not provided this office with an affirmative representation from any governmental body with a litigation interest that the governmental body wishes the information at issue to be withheld pursuant to section 552.103. Therefore, the department may not withhold the requested dates of birth under section 552.103 of the Government Code. As you raise no further exceptions to disclosure, the 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, 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/eeg

Ref: ID# 351951

Enc. Submitted documents

c: Requestor
(w/o enclosures)