



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2009

Mr. Leonard V. Schneider
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway Suite 700
Houston, Texas 77056-1918

OR2009-10591

Dear Mr. Schneider:

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# 350570.

The City of Magnolia (the "city"), which you represent, received a request for information relating to employee fringe benefits for a specified year.¹ You claim that some or all of the requested information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.²

You also ask that the city be permitted to withhold other types of records "if the [submitted records] are not considered sufficient." We note that a governmental body must make a good-faith effort to relate a request for information to responsive records that are within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). Moreover, a governmental body that seeks to withhold information must submit that particular information to this office or submit representative samples if the information at

¹You inform us that the city sought and received clarification of this request for information. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); Open Records Decision No. 663 at 2-5 (1999) (addressing circumstances under which governmental body's communications with requestor to clarify or narrow request will toll ten-business-day deadline to request decision under Gov't Code § 552.301(b)).

²This letter ruling assumes that the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the city to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

issue is voluminous. *See* Gov't Code § 552.301(e)(1)(D). You inform us that the city, having sought and received clarification of what the requestor means by "fringe benefits," has submitted representative samples of records that are responsive to the clarified request. Accordingly, we will address the public availability of the information contained in the submitted payroll history sheets. This decision does not encompass any other types of records. *See* Open Records Decision Nos. 499 at 7 (1988), 497 at 4 (1988).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex.1976). Common-law privacy protects certain types of personal financial information. Financial information that relates only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 at 9-12 (1992) (identifying public and private portions of certain state personnel records), 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis); *see also* Attorney General Opinion GA-0572 at 3-5 (2007) (public employee's net salary protected by common-law privacy because it involves disclosure of personal financial information). We have marked personal financial information that the city must withhold under section 552.101 of the Government Code in conjunction with common-law privacy.

You also raise section 552.117 of the Government Code. Section 552.117(a)(1) 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. Section 552.117(a)(2) excepts a peace officer's home address, home telephone number, social security number, and information that reveals whether the peace officer has family members, regardless of whether the officer complies with sections 552.024 or 552.1175 of the Government Code.³ You indicate that the records encompassed by this request for information involve both civilian employees and police officers. You have not demonstrated, however, and it does not otherwise appear to this

³Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure.

office that any of the submitted information falls within the scope of section 552.117 of the Government Code. We therefore conclude that the city may not withhold any of the submitted information under section 552.117(a)(1) or section 552.117(a)(2).

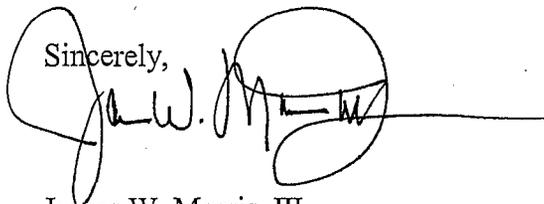
Lastly, section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See id.* § 552.130(a)(1)-(2). This exception is applicable to Texas motor vehicle record information. You have not demonstrated, and it does not otherwise appear to this office, that the submitted documents contain any information that falls within the scope of section 552.130. We therefore conclude that the city may not withhold any of the submitted information under section 552.130 of the Government Code.

In summary, the city must withhold the information that we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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, 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 'J.W. Morris, III', with a long horizontal line extending to the right.

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

JWM/cc

Ref: ID# 350570

Enc: Submitted documents

c: Requestor
(w/o enclosures)