



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 21, 2009

Mr. Ronald J. Bounds  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2009-13226

Dear Mr. Bounds:

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# 355915.

The City of Corpus Christi (the "city"), received a request for the following information: (1) documents, including applications, of employees hired by the city police department (the "department") since January 1, 2009; (2) documents reflecting the identity and rate of pay of civilian employees hired by the department during the same time period; (3) documents reflecting advertising and soliciting for vacant positions within the department for the same time period, including police chief; (4) current policies and procedures regarding the release of employment discrimination complaints to the public, including the media; and (5) documents reflecting the release of employment discrimination complaints to the public, including the media, since June 1, 2009.<sup>1</sup> You state the city will release portions of the requested information. You state you have redacted social security numbers pursuant to

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<sup>1</sup>You inform us that the city received the present request on June 25, 2009. You explain that in accordance with section 552.263 of the Government Code, the city required the requestor to provide a deposit or bond for payment of anticipated costs for the preparation of the requested information. *See* Gov't Code § 552.263(a). You state that the city received payment on July 10, 2009; thus, that is the date on which the city is deemed to have received the present request. *Id.* § 552.263(e).

section 552.147 of the Government Code.<sup>2</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.130, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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 section encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex.1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *See id.* at 681-82. The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See* 540 S.W.2d at 683. This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree that the information you have marked is intimate or embarrassing and is not a matter of legitimate public concern. Thus, the city must withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You have marked certain employee information under section 552.117(a)(1). We have marked additional information that may be excepted on this basis. You do not inform us, however, whether the employees whose information is at issue timely elected confidentiality under

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<sup>2</sup>We note that section 552.147(b) 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.

<sup>3</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

section 552.024. Therefore, we must rule conditionally. To the extent the employees concerned timely elected to keep the marked information confidential, then the city must withhold that information under section 552.117(a)(1) of the Government Code. To the extent the employees concerned did not make a timely election to keep the marked information confidential, the information may not be withheld under section 552.117(a)(1).

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 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 the city must withhold the Texas motor vehicle record information you have marked pursuant to section 552.130.

Section 552.136 of the Government Code provides that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see* § 552.136(a) (definition of "access device number" includes account numbers). The city must withhold the credit card account number you have marked pursuant to section 552.136 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 member of the public 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), (b). We find that the e-mail addresses you have marked are not a type specifically excluded by section 552.137(c). *See* Act of May 15, 2001, 77th Leg., R.S., ch. 356, § 1, 2001 Tex. Gen. Laws 651, 651-52, *amended by* Act of May 27, 2009, 81st Leg., R.S., ch. 962, § 7, 2009 Tex. Sess. Law Serv. 2555, 2557 (Vernon) (to be codified as an amendment to Gov't Code § 552.137(c)). Further, you state that you have not received affirmative consent from the owners of the e-mail addresses for their release. Therefore, the city must withhold the marked e-mail addresses pursuant to section 552.137. *See id.* § 552.137(b).

In summary, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the employees concerned timely elected to keep their personal information confidential, the city must withhold the marked information under section 552.117 of the Government Code. The city must withhold the information you have marked under sections 552.130, 552.136, and 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, toll free, at (888) 672-6787.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/eb

Ref: ID# 355915

Enc. Submitted documents

c: Requestor  
(w/o enclosures)