



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 17, 2011

Ms. Leticia Brysch  
City Clerk  
City of Baytown  
P.O. Box 424  
Baytown, Texas 77522-0424

OR2011-03729

Dear Ms. Brysch:

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# 412367 (Baytown PIR# 3177).

The City of Baytown (the "city") received a request for the names and addresses of all individuals who received a warning or citation for violating a specified city ordinance. You claim the requested information is excepted from disclosure under sections 552.117 and 552.1175 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.117(a)(1) excepts from disclosure the current and former 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, while section 552.117(a)(2) excepts the same types of information of a peace officer, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See Gov't Code* § 552.117(a)(1), (2). However, section 552.117 protects the personal information of a peace officer or employee only in the context of his or her role as an

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<sup>1</sup>Although you also raise section 552.024 of the Government Code, we note that this section is not an exception to disclosure under the Act. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain information relating to the current or former official or employee that is held by the employing governmental body. *See Gov't Code* § 552.024.

<sup>2</sup>We assume 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 those records contain substantially different types of information than those submitted to this office.

employee of the governmental body. *See generally id.* §§ 552.024 (allowing employees and officials of governmental body to elect to withhold enumerated categories of information held by governmental body in its capacity as employer), .117(a)(1) (exception is subject to proper election under 552.024). The requestor here seeks information concerning individuals who received a warning or citation for violating a particular city ordinance. Accordingly, the requested information is not held by the city in an employment context but, rather, in a law enforcement context. Therefore, we find section 552.117(a) of the Government Code does not apply in this situation; and we conclude the city may not withhold the requested information on that basis.

You also raise section 552.1175, which applies to information held by a governmental body concerning the following individuals:

- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
- (2) county jailers as defined by Section 1701.001, Occupations Code;
- (3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;
- (4) commissioned security officers as defined by Section 1702.002, Occupations Code;
- (5) employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;
- (6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);
- (7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure; and
- (8) police officers and inspectors of the United States Federal Protective Service.

Gov't Code § 552.1175(a). If the requested information concerns an individual listed in section 552.1175(a), then section 552.1175(b) provides:

- (b) [T]he home address . . . of an individual to whom this section applies . . . is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

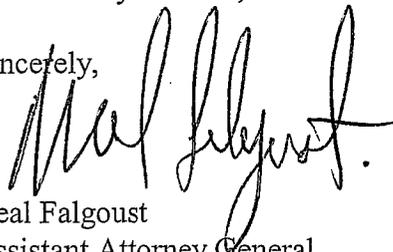
- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a), (b). Accordingly, to the extent the requested information relates to an individual who is covered by section 552.1175(a), then the city must withhold the individual's home address under section 552.1175(b), provided that individual chooses to restrict access to that information and properly notifies the city of that decision. If the requested information does not relate to an individual who is covered by section 552.1175(a), or if an individual who is covered by section 552.1175(a) does not make the required election, then the city may not withhold the information at issue under section 552.1175(b) and it 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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/dls

Ref: ID# 412367

Enc. Submitted documents

c: Requestor  
(w/o enclosures)