



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 23, 2012

Ms. Mariví Gambini
City Attorney's Office
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR2012-02790

Dear Ms. Gambini:

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# 446220.

The City of Irving (the "city") received a request for the following information related to the city manager during a specified time period: all personal financial statements, calendars, and time sheets. You state you will release some information to the requestor. You claim some of the submitted information is excepted from disclosure pursuant to sections 552.101, 552.102, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us the submitted information consists of personal financial statements that were filed by the city manager with the city secretary pursuant to chapter 145 of the Local Government Code. This chapter governs the public availability of the financial disclosure statements filed by local government officers of cities with a population of at least 100,000. Local Gov't Code § 145.001. A municipal officer is required to file a financial statement with the clerk or secretary of the municipality in which the officer resides. *Id.* § 145.003(a), (b). A "municipal officer" is defined as the mayor, a member of the governing body, the municipal attorney, or the city manager. *Id.* § 145.002. Thus, the city's manager is a municipal officer required to file financial statements with the city clerk or secretary under chapter 145. The financial statement required to be filed under chapter 145 is "the form designed by the Texas Ethics Commission under Chapter 572, Government Code." *Id.* § 145.005(a). Financial statements filed under chapter 145 are public records and are "accessible to the public during regular office hours." *Id.* § 145.007(a). Although you seek to withhold portions of the submitted personal financial statements under sections 552.102

and 552.117 of the Government Code, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Furthermore, although you raise section 552.101 of the Government Code in conjunction with common-law privacy, a specific statutory right of access also prevails over the common law. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Accordingly, the city may not withhold any of the information contained in the submitted chapter 145 financial statements under section 552.101, section 552.102, or section 552.117 of the Government Code. Instead, the city must release the submitted information in its entirety pursuant to section 145.007 of the Local Government Code.

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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 446220

Enc. Submitted documents

c: Requestor
(w/o enclosures)