



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2014

Ms. Christina Weber
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2014-21820

Dear Ms. Weber:

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# 547120 (ORR# W017436-100314).

The City of Arlington (the "city") received a request for the current business-leave pool (the "pool"), as well as a list of city employees who donate to the pool and the amount they donate. The city states it does not have some of the requested information.¹ The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

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. The city represents the submitted information consists of (1) the names of members of an employee organization who contributed leave to the organization's business leave account in accordance with section 142.013 of the Local Government Code, and (2) the amount of leave they contributed. *See generally* Loc. Gov't Code § 142.013 (providing

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received.

members of certain employee organizations may donate accumulated vacation or compensatory time to those organizations' business leave time accounts). The city contends revealing the names of the members would violate their First Amendment rights to freedom of association. The First Amendment guarantees the freedom of association for the purpose of advancing ideas and airing grievances. U.S. Const. amend. I; *NAACP v. Alabama*, 357 U.S. 449, 460 (1958). The party asserting the right of association bears the initial burden of making a *prima facie* showing of harm to its First Amendment right. *In re Bay Area Citizens Against Lawsuit Abuse*, 982 S.W.2d 371, 376 (Tex. 1998). Such a burden is a light one. *Id.* The party "need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties." *Buckley v. Valeo*, 424 U.S. 1, 74 (1976). Such proof includes "specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself." *Id.*

The city states releasing the names of the members who donate to the business leave pool "would have a chilling effect." However, upon review we find the city has not offered any specific evidence of past or present harassment of the members due to their associational ties with the employee organization at issue. Accordingly, we conclude the city may not withhold the names of the members under the right of association. Therefore, the city must release the submitted information to the requestor.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

Ref: ID# 547120

Enc. Submitted documents

c: Requestor
(w/o enclosures)