



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2017

Ms. Julie P. Doshier
Counsel for the City of Farmers Branch
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Suite 1800
Dallas, Texas 75201

OR2017-07162

Dear Ms. Doshier:

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# 652059 (File Ref. No. 83279).

The City of Farmers Branch (the "city"), which you represent, received a request for the name, rank, date of hire, and e-mail address of all police and fire personnel. We understand you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The city seeks to withhold some of the submitted information pursuant to section 552.152 of the Government Code, which provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You assert the release of the information you marked would subject undercover officers to a substantial threat of physical harm. Upon review, we find

section 552.152 is applicable to the identifying information of the undercover officers. Accordingly, the city must withhold the identifying information of the undercover officers, which we have marked, under section 552.152 of the Government Code.¹ However, we find you have not demonstrated the release of the remaining information you marked would subject an employee of the city to a substantial threat of physical harm. Thus, the city may not withhold the remaining information you marked under section 552.152.

Next, we note the remaining information you seek to withhold is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Id. § 552.022(a)(2). The remaining information you seek to withhold consists of the ranks and dates of hire of employees of the city's police department. This information is subject to section 552.022(a)(2) of the Government Code and must be released unless it is made confidential under the Act or other law. *See id.* You seek to withhold the information at issue under section 552.108 of the Government Code. However, section 552.108 is discretionary in nature and does not make information confidential under the Act. *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver).* Therefore, the information at issue may not be withheld under section 552.108 of the Government Code.

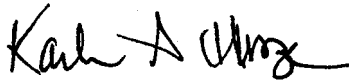
In summary, the city must withhold the information we marked under section 552.152 of the Government Code. The city must release the remaining information pursuant to section 552.022(a)(2) of the Government Code.

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.

¹As our ruling is dispositive, we need not address the city's remaining argument against disclosure of the information at issue.

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,

A handwritten signature in black ink, appearing to read "Kaelan A. Henze". The signature is fluid and cursive, with a large initial "K" and "H".

Kaelan A. Henze
Assistant Attorney General
Open Records Division

KAH/nmd

Ref: ID# 652059

Enc. Submitted documents

c: Requestor
(w/o enclosures)