



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 9, 2003

Ms. Debra A. Drayovitch
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2003-3134

Dear Ms. Drayovitch:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 180860.

The City of Corinth (the "city"), which you represent, received a request for a copy of a specified list. You state that you have forwarded some responsive information to the requestor. You claim, however, that the remaining requested information is excepted from disclosure pursuant to section 552.138 of the Government Code.¹ We have considered your claim and have reviewed the submitted information.

Section 552.137 of the Government Code provides:

- (a) An e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

¹ Although you claim that section 552.138 excepts the remaining requested information from disclosure, we note that there is no such exception to disclosure under the Public Information Act. See Gov't Code ch. 552. Because your section 552.138 claim is in regards to requested e-mail addresses, we assume that the city intended to cite section 552.137 of the Government Code as the applicable exception to disclosure regarding this information. Accordingly, we will address the city's claim regarding the remaining requested information under section 552.137 of the Government Code.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

Gov't Code § 552.137. Section 552.137 requires the city to withhold e-mail addresses of members of the public that are provided for the purpose of communicating electronically with the city, unless the members of the public with whom the addresses are associated have affirmatively consented to their release. Accordingly, we conclude that the city must withhold such e-mail addresses that are contained within the submitted information pursuant to section 552.137, unless the members of the public with whom they are associated have affirmatively consented to their release. We note, however, that section 552.137 does not apply to a government employee's work e-mail address or a business's general e-mail address or web address. Thus, to the extent that the submitted information contains any such addresses, the city must release such addresses to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

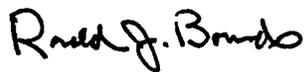
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/lmt

Ref: ID# 180860

Enc. Submitted documents

c: Ms. Shirley Spellerberg
3621 Lynchburg Drive
Corinth, Texas 76208
(w/o enclosures)