



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 19, 2003

Ms. Shelby Rogers
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

OR2003-3327

Dear Ms. Rogers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 181346.

The State Bar of Texas (the "Bar") received a request for "all non-exempt, non-confidential **e-mail addresses**, held by the [Bar] including but not limited to those of members and staff of the [Bar]." You claim that the requested information is excepted from disclosure under sections 552.136 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information.¹

In Open Records Letter Ruling No. 2002-2107 (2002) this office concluded that the Bar may withhold from public disclosure the non-government, e-mail addresses obtained from members of the public, unless the members of the public have affirmatively consented to their release, without the necessity of requesting an attorney general decision as to that exception. *See* Gov't Code § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001).

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

In this instance, the Bar has submitted the responsive information that it believes to be subject to section 552.137. Therefore, we will address the applicability of 552.137 to that information. Section 552.137 of the Government Code requires the Bar to withhold an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body, unless the member of the public has affirmatively consented to its release.² Consequently, we conclude that, unless the individuals have consented, the Bar must withhold non-government, e-mail addresses from disclosure. We have marked the governmental e-mail addresses that the Bar must release.

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.

²Section 552.136 of the Government Code also exempts from public disclosure the e-mail address of a member of the public. Sections 552.136 and 552.137 contain identical language.

Ms. Shelby Rogers - Page 3

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jh

Ref: ID# 181346

Enc. Submitted documents

Ms. Shelby Rogers - Page 4

c: Mr. Brad L. Armstrong
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(w/o enclosures)