



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 13, 2005

Ms. Amy L. Sims  
Assistant City Attorney  
City of Lubbock  
P. O. Box 2000  
Lubbock, Texas 79457

OR2005-11176

Dear Ms. Sims:

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# 241350.

The City of Lubbock (the "city") received a request for information regarding a permit appeal board meeting, the board members, and board procedures. You claim that portions of the submitted information pertaining to board members are excepted from disclosure under section 552.117 of the Government Code. To the extent additional responsive information existed at the time the city received the request for information, we assume such information has been released to the requestor. If not, such information must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). We have considered the exception you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, personal cellular telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). As such, the city must withhold information you have highlighted pursuant to

section 552.117(a)(1) to the extent the city employees to whom such information pertains made timely elections for confidentiality prior to the date on which the city received the instant request for information.

Lastly, we note that section 552.137 of the Government Code excepts from disclosure “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 consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c).<sup>1</sup> The e-mail addresses contained in the submitted information do not appear to be of a type specifically excluded by section 552.137(c). As such, these e-mail addresses must be withheld under section 552.137 unless their owners have affirmatively consented to their release. *See* Gov’t Code § 552.137(b).

In summary, the city must withhold the information you have highlighted under section 552.117(a)(1) of the Government Code to the extent the city employees to whom such information pertains made timely elections for confidentiality. The e-mail addresses must be withheld under section 552.137 of the Government Code unless their owners have affirmatively consented to their release. The remaining submitted information must be released 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 ten 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.137 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel  
Assistant Attorney General  
Open Records Division

RBR/krl

Ref: ID# 241350

Enc. Submitted documents

c: Mr. Dewey Brackin  
Gardere, Wynne & Sewell, L.L.P.  
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Austin, Texas 78701  
(w/o enclosures)