



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 2, 2007

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
1500 Marilla, Room 7BN
Dallas, Texas 75201

OR2007-01358

Dear Mr. Toscano:

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# 269351.

The City of Dallas (the "city") received a request for a copy of the internet logs of the URLs viewed by Dallas City Council ("council") members using city or personal laptop computers during council agenda meetings and briefing meetings in the last eighteen months. You state that the personal laptop computers contain no responsive information. You raise no exception to disclosure of the requested information. However, you claim that the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted sample of information.¹

The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Government Code provides that "public information" consists of

¹ We 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.

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). Thus, virtually all information that is in a governmental body's physical possession constitutes public information. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You claim that the submitted internet logs constitute personal information that is unrelated to the transaction of official business. You also assert that the submitted information has no significance other than its use as a tool to allow the computer user faster access and navigation in Internet Explorer.

In order to demonstrate that the submitted records are not subject to the Act, the city must establish that the information was not collected, assembled, or maintained in connection with the transaction of official business. Gov't Code § 552.002(a). This office has found that personal information unrelated to official business is not subject to the Act. *See* Open Records Decision No. 635 at 8 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimus use of state resources). The internet logs were created by software installed by the city and compiled in folders stored locally on the computers' hard drives. This information may be viewed, deleted, and copied by the city at any time. Once the information is created on the computer, the author of the website is no longer able to control, review, or delete the information. Because you state that the internet logs are maintained on the computers for a number of days determined and customized by the city, it also appears that you have adopted a policy related to the maintenance of this information. Thus, the city does maintain these internet logs.

Next we consider whether the internet logs are maintained in connection with the transaction of official business. The request at issue only seeks information created while council members are actually attending meetings. You state that the purpose of issuing city laptops for use during council meetings is so that council members can "read briefing materials, check emails on the city's webpage, check constituent emails, correspond with city staff and read the newspaper." These purposes relate to the transaction of official business. Therefore, the submitted internet logs were created by council members using computers provided by the city in order for the council members to conduct city business while the council meeting was in session. Because the information stored in the logs reveals the websites and information accessed by the council members while performing their duties, the information has significance beyond simply increasing the speed of navigation in Internet Explorer. Based upon your representations, we find that the submitted internet logs

constitute public information that is subject to the Act. Accordingly, you must release the requested internet logs 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the 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).

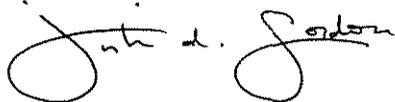
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Justin D. Gordon". The signature is written in a cursive style with a large initial "J" and "G".

Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/sdk

Ref: ID# 269351

Enc. Submitted documents

c: Ms. Emily Ramshaw
The Dallas Morning News
P.O. Box 655237
Dallas, Texas 75265
(w/o enclosures)