



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 21, 2007

Mr. Jeffrey L. Moore  
Brown & Hoffmeister, L.L.P.  
City of Roanoke  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2007-07871

Dear Mr. Moore:

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# 282193.

The City of Roanoke (the "city"), which you represent, received a request for an e-mail to a named individual "sent out Wednesday, Thursday or Friday of April 4, 5, or 6" containing an attachment entitled "Press Release."<sup>1</sup> You assert that the submitted e-mail is not subject to the Act. In the alternative, you claim that parts of the submitted e-mail are excepted from disclosure under section 552.137 of the Government Code. We have considered your claims and reviewed the submitted information.

You assert that the submitted e-mail is not public information. Section 552.002 of the Government Code defines public information as "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." *See* Gov't Code § 552.002(a). In this instance, you assert that the submitted e-mail is not public information because it was sent to the city manager's private home e-mail address from a Town of Prosper, Texas, Town Council member's private e-mail address. You argue that the e-mail at issue was not

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<sup>1</sup>You inform us that the requestor subsequently clarified his request. *See generally* Gov't Code § 552.222(b) (governmental body may ask requestor to clarify request).

collected, assembled, or maintained by the city. Further, you claim that the city does not own this information or have a right of access to e-mails sent to the city manager's private e-mail address. Upon review, we find that the submitted e-mail is not "public information" under the Act because it does not relate to the transaction of official city business. *See id.* § 552.002; *see also* Open Records Decision No. 635 at 4 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimis use of state resources). Rather, this information relates to the city manager's personal decision to accept other employment. Accordingly, the city is not required to disclose the submitted e-mail under the Act.<sup>2</sup>

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).

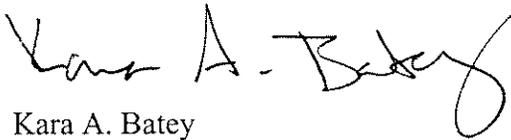
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<sup>2</sup>As our ruling for this information is dispositive, we do not address your argument under section 552.137 of the Government Code.

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 "Kara A. Batey". The signature is written in a cursive style with a large, looping "y" at the end.

Kara A. Batey  
Assistant Attorney General  
Open Records Division

KAB/mcf

Ref: ID# 282193

Enc. Submitted documents

c: Mr. Rodney Hays  
The Prosper Press  
510 North Highway 289  
Prosper, Texas 75078  
(w/o enclosures)