



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 21, 2009

Ms. Susan K. Bohn  
General Counsel  
Lake Travis Independent School District  
3322 Ranch Road 620 South  
Austin, Texas 78738

OR2009-11853

Dear Ms. Bohn:

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# 353824 (Request Nos: 060909-R409/DL 3866, 060909-R413/DL 3870).

The Lake Travis Independent School District (the "district") received two requests from the same requestor for information pertaining to contracts, invoices, and payments made to a named individual and entity, and all e-mails, including drafts, of two named district employees, for June 8, 2008. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We must address the district's procedural obligations under the Act. Subsections (a) and (b) of section 552.301 require a governmental body requesting an open records ruling from this office to "ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request." Gov't Code § 552.301(a), (b). You state the district received the requests for information on June 9, 2009. However, you did not raise any exceptions to disclosure until July 6, 2009. Consequently, we find that the district failed to comply with the requirements of section 552.301 in requesting this decision.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information from disclosure. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing that the information is made confidential by another source of law or affects third party interests. *See Open Records Decision No. 630* (1994). Because the district's claims under sections 552.101, 552.136, and 552.137 of the Government Code can provide compelling reasons for non-disclosure under section 552.302, we will consider the applicability of these exceptions to the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See Open Records Decision Nos. 470* (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, the information you have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, the district must withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument. *Id.* The district must withhold the bank account and routing numbers you have marked under section 552.136 of the Government Code.

Section 552.137 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). *Id.* § 552.137(a)-(c). Subsection (c)(1) states that subsection (a) does not apply to an e-mail address "provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's

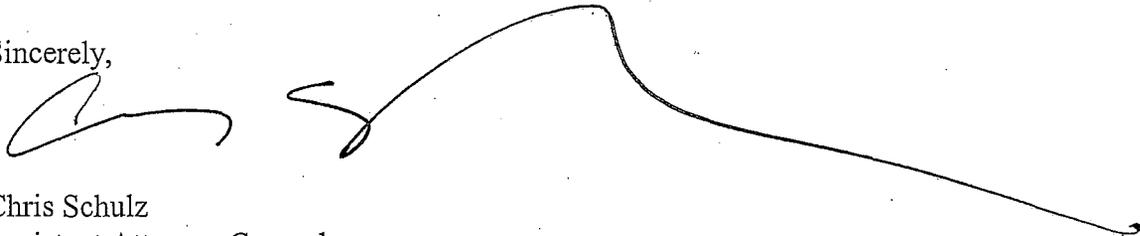
agent” and subsection (c)(2) states that subsection (a) does not apply to an e-mail address “provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor’s agent[.]” *Id.* § 552.137(c)(1), (2). You inform us that the owners of the e-mail addresses at issue have not consented to their release. Accordingly, the district must withhold the e-mail addresses you marked under section 552.137, except to the extent that any such address is the address of a person or agent of a person who has or is seeking a contractual relationship with the district.

In summary, the district must withhold the information you have marked under (1) section 552.101 of the Government Code in conjunction with common-law privacy, and (2) section 552.136 of the Government Code. The district must withhold the e-mail addresses you marked under section 552.137, except to the extent that any such address is the address of a person or agent of a person who has or is seeking a contractual relationship with the district. The remaining information must be released.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Schulz", with a long, sweeping horizontal line extending to the right.

Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 353824

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)