



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2009

Mr. Vic Ramirez
Associate General Counsel
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

OR2009-15184

Dear Mr. Ramirez:

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# 359430.

The Lower Colorado River Authority ("LCRA") received a request for all communications between LCRA staff and/or board members and a named individual since January 1, 2007, and any correspondence between LCRA staff and/or board members that mentions the named individual during the same time period. You inform this office that the requestor excluded personal cell phone numbers belonging to LCRA personnel from the request. You state that some responsive information has been released to the requestor. Although you take no position regarding the disclosure of the remaining information, you state that the information may implicate the proprietary interests of a third party. You also state, and provide documentation showing, you have notified the interested third party of the request and of the party's opportunity to submit comments to this office as to why the information at issue should not be released to the requestor. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the*

applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, the interested third party has not submitted to this office any reasons explaining why the requested information should not be released. Therefore, because the third party has not demonstrated any of the submitted information is proprietary for the purposes of the Act, LCRA may not withhold any of the information pertaining to the third party to protect its interests. *See id.* § 552.110; *see also* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3.

We note that some of the submitted information is subject to section 552.137 of the Government Code.¹ 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). *See* Gov't Code § 552.137(a), (b). The e-mail addresses at issue are not of a type specifically excluded by section 552.137(c). *See id.* § 552.137(c). You do not inform us that a member of the public has affirmatively consented to the release of any of the e-mail addresses contained in the submitted documents. Accordingly, LCRA must withhold the marked e-mail addresses under section 552.137, unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b). As you raise no exception to disclosure, the remaining information must be released to the requestor.

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, 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

¹The 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. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 359430

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Gary Bradley
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(w/o enclosures)