



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 5, 2009

Mr. Trent B. Krienke  
Davis & Wilkerson, P.C.  
P.O. Box 2283  
Austin, Texas 78768-2283

OR2009-15831

Dear Mr. Krienke:

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# 360614.

The Gainesville Hospital District d/b/a North Texas Medical Center ("NTMC"), which you represent, received two requests from the same requestor for (1) specified board meeting packets; (2) all e-mails involving four named individuals over a specified time period; (3) the amount of money spent on fulfilling public information requests this year; and (4) the current and former board of directors folders or jackets.<sup>1</sup> You state that NTMC has made some of the requested information available to the requestor. You claim that portions of the submitted information are not subject to the Act. Additionally, you claim that the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.107, 552.111,

---

<sup>1</sup>We note that NTMC asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* Open Records Decision No. 663 (1999) (discussing tolling of deadlines during period in which governmental body is awaiting clarification). We further note that, regarding one of his requests, the requestor excluded patient health information.

and 552.137 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup> We have also considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments concerning disclosure of requested information).

Initially, we note that portions of the submitted information were not in existence when NTMC received the present requests for information and, thus, are not responsive to the request. This decision does not address the public availability of the nonresponsive information, which we have marked, and NTMC need not release that information to the requestor.

Next, you inform us that a portion of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2009-15409 (2009). In that decision, we ruled in part that NTMC may withhold portions of the attorney fee bills at issue under Texas Rule of Evidence 503 and release the remainder of the attorney fee bills. As we have no indication that the law, facts, or circumstances on which the prior ruling was based have changed, NTMC may continue to rely on that ruling as a previous determination and withhold or release the same information at issue in accordance with the previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

We now address your claim that some of the submitted information is not subject to the Act. We note the Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Act 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:

---

<sup>2</sup>Although you claim the attorney-client privilege under section 552.101 of the Government Code in conjunction with Texas Rule of Evidence 503, this office has concluded that section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 1-2 (1990). In addition, because the information for which you claim this provision is not subject to section 552.022 of the Government Code, the information is properly addressed here under section 552.107, rather than rule 503. Open Records Decision No. 677 at 8-9 (2002); *see also* Gov't Code § 552.022 (listing categories of information that are expressly public under the Act and must be released unless confidential under "other law"). Therefore, we will address your attorney-client privilege claim under section 552.107 of the Government Code.

<sup>3</sup>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.

(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. You claim that computer usernames and passwords contained in the information at issue are not subject to the Act. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property, is not the kind of information that is made public under section 552.021 of the Act. *See* Open Records Decision No. 581 at 6 (1990) (construing predecessor statute). Based on the reasoning in that decision and our review of the information at issue, we find the usernames and passwords we have marked are used solely as tools to maintain, manipulate, or protect public property and have no other significance. *Id.* Therefore, the usernames and passwords we have marked are not subject to the Act, and NTMC need not release them in response to this request.<sup>4</sup>

You also assert that portions of the information at issue consist of personal e-mails that have no connection with NTMC business and represent incidental use of NTMC e-mail by NTMC employees. You further claim that portions of the information at issue consist of e-mails sent to or by individuals who serve on NTMC's board of directors using e-mail accounts not maintained by NTMC. We note that the characterization of information as "public information" under the Act is not dependent on whether the requested records are in the possession of an official or employee of a governmental body or whether a governmental body has a particular policy or procedure that establishes a governmental body's access to the information. *See* Open Records Decision No. 635 at 3-4 (1995) (finding that information does not fall outside definition of "public information" in Act merely because individual official or employee of governmental body possesses information rather than governmental body as whole); *see also* Open Records Decision No. 425 (1985) (concluding, among other things, that information sent to individual school trustees' homes was public information because it related to official business of governmental body) (overruled on other grounds by Open Records Decision No. 439 (1986)). Thus, the mere fact that NTMC does not possess the information at issue does not take the information outside the scope of the Act. *See id.* In Open Records Decision No. 635, this office found that information in a public official's personal appointment calendar may be subject to the Act in certain instances. *See* ORD 635 at 6-8 (stating information maintained on a privately-owned medium and actually used in connection with the transaction of official business would be subject to the Act). We note that the Act's definition of "public information" does not require that an employee or official create the information at the direction of the governmental body. *See* Gov't Code § 552.002.

---

<sup>4</sup>As we are able to make this determination, we need not address your arguments against disclosure of this information.

Accordingly, the mere fact that NTMC officials may have generated business-related information using personal resources does not take the information outside the scope of the Act. We agree that the e-mails we have marked do not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for NTMC. *See id.* § 552.021; *see also* ORD 635 (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). Therefore, the information we have marked is not subject to the Act, and NTMC need not release it in response to this request.<sup>5</sup> However, the remaining information was collected or assembled or is maintained in connection with the transaction of official NTMC business and, thus, constitutes "public information" as defined by section 552.002(a). Because the remaining information is subject to the Act, it must be released unless it falls within the scope of an exception to disclosure. *See* Gov't Code §§ 552.301, .302.

Next, we note section 552.022 of the Government Code is applicable to a portion of the remaining information. Section 552.022(a)(1) provides for required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body[,]" unless the information is expressly confidential under other law or excepted from disclosure under section 552.108 of the Government Code. *Id.* § 552.022(a)(1). In this instance, the remaining information includes a completed report, which we have marked, that is subject to section 552.022(a)(1). You claim this report is excepted from disclosure under section 552.111 of the Government Code. However, section 552.111 is a discretionary exception to disclosure that protects the governmental body's interests and is therefore not "other law" that makes information expressly confidential for purposes of section 552.022(a). *See* Open Records Decision No. 470 at 7 (1987) (statutory predecessor to section 552.111 subject to waiver); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Consequently, NTMC may not withhold the completed report under section 552.111 of the Government Code. As you make no further arguments against disclosure of this report, it must be released to the requestor.

We now address your arguments against disclosure of the remaining information. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential, such as section 161.032 of the Health and Safety Code, which provides in part:

(a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

...

---

<sup>5</sup>As we are able to make this determination, we need not address your arguments against disclosure of this information.

(c) Records, information, or reports of a medical committee . . . and records, information, or reports provided by a medical committee . . . to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under Chapter 552, Government Code.

Health & Safety Code § 161.032(a), (c). For purposes of this confidentiality provision, a “‘medical committee’ includes any committee, including a joint committee, of . . . a hospital [or] a medical organization . . . .” *Id.* § 161.031(a). The term also encompasses “a committee appointed ad hoc to conduct a specific investigation or established under state or federal law or rule or under the bylaws or rules of the organization or institution.” *Id.* § 161.031(b). Section 161.0315 provides in relevant part that “[t]he governing body of a hospital [or] medical organization . . . may form . . . a medical committee, as defined by section 161.031, to evaluate medical and health care services . . . .” *Id.* § 161.0315(a). You contend NTMC’s Medical Executive Committee is a “medical committee.”

The precise scope of the “medical committee” provision has been the subject of a number of judicial decisions. *See Memorial Hosp.—The Woodlands v. McCown*, 927 S.W.2d 1 (Tex. 1996); *Barnes v. Whittington*, 751 S.W.2d 493 (Tex. 1988); *Jordan v. Fourth Supreme Judicial Dist.*, 701 S.W.2d 644 (Tex. 1986); *Hood v. Phillips*, 554 S.W.2d 160 (Tex. 1977); *Texarkana Memorial Hosp., Inc. v. Jones*, 551 S.W.2d 33 (Tex. 1977); *McAllen Methodist Hosp. v. Ramirez*, 855 S.W.2d 195 (Tex. App.—Corpus Christi 1993), *disapproved by*, *Memorial Hosp.—The Woodlands v. McCown*, 927 S.W.2d 1 (Tex. 1996); *Doctor’s Hosp. v. West*, 765 S.W.2d 812 (Tex. App.—Houston [1st Dist.] 1988); *Goodspeed v. Street*, 747 S.W.2d 526 (Tex. App.—Fort Worth 1988). These cases establish that “documents generated by the committee in order to conduct open and thorough review” are confidential. This protection extends “to documents that have been prepared by or at the direction of the committee for committee purposes.” *Jordan*, 701 S.W.2d at 647-48. Protection does not extend to documents “gratuitously submitted to a committee” or “created without committee impetus and purpose.” *Id.* at 648; *see also* Open Records Decision No. 591 (1991) (construing statutory predecessor to Health & Safety Code § 161.032). We note that section 161.032 does not make confidential “records made or maintained in the regular course of business by a hospital[.]” Health & Safety Code § 161.032(f); *see Memorial Hosp.—The Woodlands*, 927 S.W.2d at 10 (stating that reference to statutory predecessor to section 160.007 in section 161.032 is clear signal that records should be accorded same treatment under both statutes in determining if they were made in ordinary course of business).

You state that Exhibit J consists of e-mails and attachments that constitute records of NTMC’s Medical Executive Committee. You assert that the information in Exhibit J is prepared and created in connection with medical committee proceedings and is kept separate from other hospital records for Medical Executive Committee purposes. Based on your representations and our review, we agree the Medical Executive Committee constitutes a medical peer review committee as defined by section 161.031. Furthermore, after review of

the information at issue, we find that the information we have marked in Exhibit J consists of records of a medical committee. Accordingly, NTMC must withhold the information we have marked in Exhibit J under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code. However, you have not demonstrated that the remaining information in Exhibit J constitutes documents generated by a committee in order to conduct an open and thorough review. Therefore, NTMC may not withhold the remaining information in Exhibit J under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." In *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.—Austin 1983, writ ref'd n.r.e.), the court ruled that the test to be applied to information claimed to be protected under section 552.102(a) is the same as the test formulated by the Texas Supreme Court in *Industrial Foundation* for information claimed to be protected under the doctrine of common-law privacy under section 552.101. Accordingly, we address NTMC's section 552.102(a) claim in conjunction with its common-law privacy claim under section 552.101.

This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. *See* Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). This office has also found 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) (information pertaining to illness from severe emotional and job-related stress protected by common-law privacy), 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure). Furthermore, in Open Records Decision No. 339 (1982), we

concluded that a sexual assault victim has a common-law privacy interest which prevents disclosure of information that would identify the victim. *See also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). Therefore, NTMC must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, none of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and it may not be withheld under either section 552.101 in conjunction with common-law privacy or section 552.102(a) of the Government Code.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made “for the purpose of facilitating the rendition of professional legal services” to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a confidential communication, *id.* 503(b)(1), meaning it was “not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.” *Id.* 503(a)(5). Whether a communication meets this definition depends on the intent of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, no pet.). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You claim that the communication in Exhibit H was made for the purpose of facilitating the rendition of professional legal services. You state that the communication at issue was intended to be confidential, and you do not indicate that its confidentiality has been waived.

You have identified the parties to the communication as a NTMC employee and an attorney representing NTMC. Upon review, we find that NTMC may withhold the communication in Exhibit H under section 552.107 of the Government Code.

Next, section 552.111 of the Government Code excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." Gov't Code § 552.111. This exception encompasses the deliberative process privilege. See Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. See *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990). In Open Records Decision No. 615 (1993), this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined that section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, and opinions that reflect the policymaking processes of the governmental body. See ORD 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; see also *City of Garland v. The Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. See Open Records Decision No. 631 at 3 (1995). Moreover, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. See ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. See Open Records Decision No. 313 at 3 (1982).

We also have concluded that a preliminary draft of a document that is intended for public release in its final form necessarily represents the drafter's advice, opinion, and recommendation with regard to the form and content of the final document, so as to be excepted from disclosure under section 552.111. See Open Records Decision No. 559 at 2 (1990) (applying statutory predecessor). Section 552.111 protects factual information in the draft that also will be included in the final version of the document. See *id.* at 2-3. Thus, section 552.111 encompasses the entire contents, including comments, underlining, deletions, and proofreading marks, of a preliminary draft of a policymaking document that will be released to the public in its final form. See *id.* at 2.

You state that some of the remaining information consists of a draft audit, a draft budget, and draft minutes that are intended for public release in their final form. You state that other

information consists of advice, opinion, and recommendation in the deliberative process. Based on your representations and our review, we agree that NTMC may withhold the information we have marked under section 552.111 of the Government Code. However, the remaining information you seek to withhold under section 552.111 does not constitute communications that consist of advice, recommendations, and opinions that reflect the policymaking processes of NTMC. Therefore, NTMC may not withhold any of the remaining information under section 552.111.

We note some of the remaining information may be subject to section 552.117 of the Government Code.<sup>6</sup> Section 552.117(a)(1) excepts from disclosure the home addresses and 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 of the Government Code. *See Gov't Code* §§ 552.117(a)(1), .024. We note section 552.117 also encompasses a personal cellular telephone or pager number, unless the cellular or pager service is paid for by a governmental body. *See Open Records Decision Nos. 670 at 6 (2001), 506 at 5-7 (1988)* (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989)*. NTMC may only withhold information under section 552.117(a)(1) on behalf of a former or current employee who has made a request for confidentiality under section 552.024 prior to the date on which the request for information was made. In this instance, we have marked the information within the submitted documents that is generally subject to section 552.117. You do not inform this office that the NTMC employees whose information we have marked elected to keep their personal information confidential before NTMC received the instant request for information. Therefore, we must rule conditionally. To the extent the individuals whose personal information we have marked are NTMC employees who timely elected to withhold their personal information under section 552.024, the marked information pertaining to those employees must be withheld under section 552.117(a)(1); however, NTMC may only withhold the marked cellular telephone and pager numbers if the employees at issue paid for the cellular telephone or pager service with their own funds. To the extent the individuals at issue are not NTMC employees or did not timely elect confidentiality, the marked information may not be withheld under section 552.117(a)(1).

We also note that the remaining information includes personal e-mail addresses. With respect to that information, section 552.137 of the Government Code provides in part:

---

<sup>6</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987)*.

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act].

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract;

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by section 2001.003(2) of [the Government Code], or receiving orders or decisions from a governmental body.

Gov't Code § 552.137(a)-(c). Thus, section 552.137 excepts from disclosure certain e-mail addresses of members of the public that are provided for the purpose of communicating electronically with a governmental body, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure or the e-mail address falls within the scope of section 552.137. We note that section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. We have marked e-mail addresses that NTMC must withhold under section 552.137, unless the owner of the e-mail

address has consented to its disclosure or the e-mail address is encompassed by section 552.137(c).

In summary, (1) NTMC need not release the marked nonresponsive information; (2) NTMC need not release the marked information that is not subject to the Act; (3) NTMC may continue to rely on Open Records Letter No. 2009-15409, and withhold or release the same information at issue in accordance with the previous decision; (4) NTMC must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code; (5) NTMC must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (6) NTMC may withhold the communication in Exhibit H under section 552.107 of the Government Code; (7) NTMC may withhold the information we have marked under section 552.111 of the Government Code; (8) to the extent the individuals whose personal information we have marked are NTMC employees who timely elected to withhold their personal information under section 552.024, the marked information pertaining to those employees must be withheld under section 552.117(a)(1); however, NTMC may only withhold the marked cellular telephone and pager numbers if the employees at issue paid for the cellular telephone or pager service with their own funds; and (9) NTMC must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owner of an e-mail address has consented to its disclosure or the e-mail address is encompassed by section 552.137(c). The remaining information must be released to the requestor.

We note that the requestor requested some of the information at issue be provided to him in a .pst file format. Section 552.228 of the Government Code requires a governmental body to provide a copy of the public information in the requested medium if it has the technological ability to do so without the purchase of software or hardware. *See Gov't Code* § 552.228(b)(1), (2). You inform us, however, that NTMC lacks the technical capabilities to release redacted information in the requested format. Therefore, NTMC may release the remaining information at issue in the submitted paper format or in another medium acceptable to the requestor. *See id.* § 552.228(c).

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, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 360614

Enc. Submitted documents

c: Requestor  
(w/o enclosures)