



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 9, 2009

Ms. Martha T. Williams  
Olson & Olson L.L.P.  
Wortham Tower, Suite 600  
2727 Allen Parkway  
Houston, Texas 77019

OR2009-17445

Dear Ms. Williams:

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# 363841.

The City of Rosenberg (the "city"), which you represent, received a request for all e-mails between two named individuals, one of whom is a city employee. You claim the submitted e-mails are not subject to the Act. In the alternative, you claim the e-mails are excepted from disclosure under sections 552.101, 552.117, and 552.137 of the Government Code.<sup>1</sup> We have considered your arguments and reviewed the submitted information.

You assert the submitted e-mails are not public information subject to the Act. The Act is only applicable to "public information." *See* Gov't Code § 552.021. Section 552.002(a) 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." *Id.* § 552.002(a).

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<sup>1</sup>Although you raise section 552.024 of the Government Code as an exception to disclosure of the city employee's personal information, we understand you to claim section 552.117 of the Government Code, as this is the proper exception.

You state the submitted e-mails pertain to the incidental use of the city's e-mail system by a city employee, and contain no information related to city business. You also represent the e-mails were not collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by or for the city. *See* Gov't Code § 552.021. Based on your representations and our review, we conclude the submitted e-mails are not subject to the Act, and need not be released in response to this request. *See generally* Open Records Decision No. 635 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). As our ruling is dispositive, we need not address your raised exceptions to disclosure.

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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 363841

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)