



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 16, 2011

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

OR2011-03624

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# 411415.

The City of Roanoke (the "city"), which you represent, received a request for all documents from a named city official regarding NAPA Auto Parts during a specified time period. You state some responsive information has been made available to the requestor. You claim the submitted information is not subject to the Act. In the alternative, you claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted information.

You claim the submitted information is not 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). You assert the submitted information relates to a city official's personal business and does not relate to the transaction of official city business. You explain the submitted information was "inadvertently forwarded from a personal computer to the [c]ity's computer system" and was not collected, assembled, or maintained by the city. Upon review, we agree the submitted information does 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 the city, and represents incidental use of the city’s e-mail by a city official. *See id.* § 552.021; *see also* Open Records Decision No. 635 (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). Thus, we conclude the submitted information is not subject to the Act, and need not be released in response to this request.¹

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 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 411415

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our determination is dispositive, we need not address your arguments against disclosure.