



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 27, 2012

Mr. Tim Wyatt  
Public Information Officer  
Collin County  
2300 Bloomdale Road, Suite 4154  
McKinney, Texas 75071

OR2012-09941

Dear Mr. Wyatt:

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# 457458.

Collin County (the "county") received a request for all e-mails to or from a named individual that make certain references. You state you will release most of the responsive information but will redact e-mail addresses under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we must address the county's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b) of the Government Code, the governmental body must

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<sup>1</sup>Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including an e-mail address of a member of the public under section 552.137 of the Government Code.

<sup>2</sup>We assume the "representative sample" of information 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.

request a ruling from this office and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). You state the county sought clarification of the information requested and received clarification on March 29, 2012. *See id.* § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified). Accordingly, the county's ten-business-day deadline was April 13, 2012. Although you state the county sent its request for a decision from this office via facsimile on April 12, 2012, we did not receive any such correspondence. The envelope in which the county submitted its request for a ruling request bears a postmark of April 19, 2012. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Thus, we find the county failed to comply with the procedural requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the 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 to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Because sections 552.101 and 552.139 of the Government Code can provide compelling reasons for non-disclosure, we will determine whether any of the submitted information must be withheld under these exceptions.

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. Section 552.101 encompasses information protected by other statutes. We understand the county asserts the submitted information is excepted from disclosure under section 552.101 in conjunction with section 2059.055 of the Government Code as well as section 552.139 of the Government Code. We note section 552.139 encompasses restricted information made confidential by section 2059.055. *Id.* § 552.139(a). Thus, we will address the county's arguments under these provisions together. Section 552.139 of the Government Code provides, in part:

- (a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

...

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(2). Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency[.]

*Id.* § 2059.055(b)(1). You state the submitted information contains reports that monitor county server backup environments, server names and addresses, user names, server backup reports, internet protocol addresses, port information, and server descriptions. You state release of this information would "provide a detailed blueprint on how the [c]ounty's computer infrastructure is designed, maintained and accessed." You further state this could "allow hackers to attack the [c]ounty network" and "increase chances of unauthorized users injecting viruses, worms, spyware, or remove or alter stored data." Based on your representations and our review, we find some of the information at issue falls within the scope of section 552.139 and section 2059.055(b)(1) and the county must withhold this information, which we have marked, under section 552.139 and section 552.101 in conjunction with section 2059.055(b)(1). As such, we conclude the county must withhold this information, which we have marked, under section 552.139 and section 552.101 in conjunction with section 2059.055(b)(1). However, the county has not demonstrated how the remaining information relates to computer network security or restricted information under section 2059.055, or to the design, operation, or defense of the county's computer network as contemplated in section 552.139(a). Further, we find the county has failed to explain how the remaining information consists of an assessment as contemplated by section 552.139(b)(2). Accordingly, the county may not withhold any of the remaining information under section 552.139 of the Government Code or section 552.101 of the Government Code in conjunction with section 2059.055 of the Government Code. As you raise no further exceptions to disclosure, 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a long horizontal flourish extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 457458

Enc. Submitted documents

c: Requestor  
(w/o enclosures)