



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 17, 2012

Mr. Albert D. Hammack  
Town of Highland Park  
4700 Drexel Drive  
Highland Park, Texas 75205

OR2012-11060

Dear Mr. Hammack:

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# 459028.

The Town of Highland Park (the "town") received a request for all correspondence to and from the Highland Park Community League (the "league") for a specified time period and all FOIA requests filed by the league for a specified time period. You state the town does not have any information responsive to the request for FOIA requests.<sup>1</sup> You also state the town has made some information available to the requestor with redactions as agreed to by the requestor. You claim the submitted information is not public information that is subject to the Act. We have considered your arguments and reviewed the submitted information.

The Act is applicable only to "public information." See Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as consisting of

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

- (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). Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1–2 (1988). The Act also encompasses information a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). Moreover, section 552.001 of the Act provides it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See* Gov't Code § 552.001(a).

We further note the characterization of information as “public information” under the Act is not dependent on whether the requested records are in the possession of an individual 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 information does not fall outside definition of “public information” in Act merely because individual member of governmental body possesses information rather than governmental body as whole); *see also* Open Records Decision No. 425 (1985) (concluding, among other things, 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)). Furthermore, this office has found that information in a public official's personal e-mail account and home telephone records may be subject to the Act where the public official uses the personal e-mail account and home telephone records to conduct public business. *See* ORD 635 at 6-12 (appointment calendar owned by a public official or employee is subject to the Act when it is maintained by another public employee and used for public business).

You state the submitted information consists of personal e-mails located in the town council members' personal e-mail accounts. You further state these personal e-mails are between the town council members in their personal capacities and the league. You assert these personal e-mails pertain to the affairs of the league and were not collected, assembled, or maintained pursuant to any law or ordinance or in connection with the transaction of official business. Based on your representations and our review, we find the submitted information does not relate to the official business of the town. Thus, the submitted information is not subject to the Act and need not 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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 459028

Enc. Submitted documents

c: Requestor  
(w/o enclosures)