



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2013

Mr. Matthew C.G. Boyle
Counsel for the City of Argyle
Boyle & Lowry, L.L.P.
4201 Wingren Drive, Suite 108
Irving, Texas 75062-2763

OR2013-07878

Dear Mr. Boyle:

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# 487028.

The Town of Argyle (the "town"), which you represent, received a request for e-mails sent or received by a named individual during a specified time period and e-mails between two named individuals during a specified time period. You state some of the requested information will be made available to the requestor upon payment of charges. You argue the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, you inform us the town asked the requestor to clarify the 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* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010). You state the town has not received a response to its request for clarification. However, a governmental body must make a good-faith effort to relate a request for information to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). In this case, as you have submitted responsive information for our review and raised exceptions to disclosure for this information, we consider the town to have made a good-faith effort to identify the information that is responsive to the request, and we will address the applicability of the claimed exceptions to the submitted information.

Next, we address your argument that the submitted information is not subject to disclosure under the Act. 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:

- (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 No. 549 at 4 (1990), 512 at 1-2 (1988). You argue the submitted information was not collected, assembled, or maintained under a law or ordinance or in connection with the transaction of the town's official business. You state the information at issue is related to the personal business of a town employee and is wholly unrelated to any town business. You argue the information at issue involves only a *de minimis* use of town resources. *See* Open Records Decision No. 635 at 4 (1995) (Gov't Code § 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). 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 town. *See* Gov't Code § 552.021. Thus, we conclude the submitted information is not subject to the Act and need not be released in response to this request. As our ruling is dispositive, we need not address your remaining arguments against 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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 487028

Enc. Submitted documents

c: Requestor
(w/o enclosures)