



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 3, 2015

Mr. Mark Smith  
Director and Librarian  
Texas State Library and Archives Commission  
P.O. Box 12927  
Austin, Texas 78711-2927

OR2015-04177

Dear Mr. Smith:

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# 560575.

The Texas State Library and Archives Commission (the "commission") received a request for e-mail correspondence to or from three named commission employees relating to a specified legislative session for a specified time period. You state the commission has released some of the requested information. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). However, information pertaining to leave of public employees is generally a matter of legitimate public interest. *See* Open Records Decision No. 336 at 2 (1982) (names of employees taking sick leave and dates of sick leave taken not private). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the

commission must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information you have marked is not highly intimate or embarrassing information or is of legitimate public interest. Therefore, none of the remaining information you have marked may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

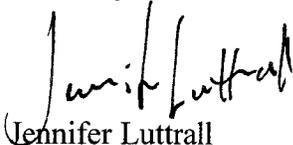
Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).<sup>1</sup> See Gov’t Code § 552.137(a)-(c). Upon review, we find the commission must withhold the e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosures.

In summary, the commission must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The commission must withhold the e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The commission must release the remaining information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/bhf

---

Ref: ID# 560575

Enc. Submitted documents

c: Requestor  
(w/o enclosures)