



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 12, 2015

Mr. Jeffrey Giles  
Assistant City Attorney  
Legal Department  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2015-16684

Dear Mr. Giles:

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# 575042 (Houston GC No. 22378).

The City of Houston (the “city”) received a request for information held by the city’s Planning and Development Department requested by a named law firm and three named individuals. You state you do not have information responsive to a portion of the request.<sup>1</sup> You claim the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

You state, and we agree, the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter No. 2015-11026 (2015). In that ruling, we determined the city (1) violated section 552.301 of the

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

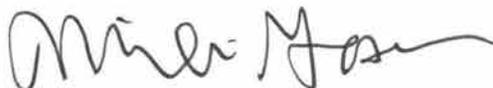
<sup>2</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov’t Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Government Code and may not withhold the submitted information under sections 552.103 and 552.107 of the Government Code; (2) must withhold certain information under sections 552.136 and 552.137 of the Government Code; and (3) must release the remaining information in accordance with copyright law. The requestor in the instant request is the owner of two e-mail addresses subject to section 552.137 in the previous ruling. Thus, the requestor has a right of access to his own e-mail addresses under section 552.137(b). *See* Gov't Code § 552.137(b) (e-mail address may be disclosed upon owner's affirmative consent to its release). Accordingly, we find the circumstances have changed with respect to the requestor's information, and the city may not rely on Open Records Letter No. 2015-11026 as a previous determination in regard to that information. *See* Open Records Decision No. 673 at 7-8 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Therefore, the city may not withhold the requestor's e-mail addresses under section 552.137 in accordance with Open Records Letter No. 2015-11026, but instead must release this information to the requestor pursuant to section 552.137(b). However, as to the information to which the current requester does not have a right of access, you state the law, facts, or circumstances on which the prior ruling was based have not changed. Thus, the city must continue to rely on Open Records Letter No. 2015-11026 as a previous determination for the remaining information and withhold and release that information in accordance with that ruling. *See id.* Because we are able to make this determination, we need not address your arguments.

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,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 575042

Enc. Submitted documents

c: Requestor  
(w/o enclosures)