



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 16, 2016

Mr. Marcelino Estrada  
Executive Director  
Texas Board of Professional Land Surveying  
12100 Park 35 Circle, Building A, Suite 156 MC-230  
Austin, Texas 78753

OR2016-03681

Dear Mr. Estrada:

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# 598659.

The Texas Board of Professional Land Surveying (the "board") received a request for the names, addresses, and e-mail addresses of all surveyors and surveyor license applicants maintained by the board. You claim some of the submitted information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we address the requestor's contention the board did not comply with the procedural requirements of the Act. The requestor asserts he was not timely notified of the board's request for a ruling from this office as required by section 552.301(d) of the Government Code. Pursuant to section 552.301(d), a governmental body must provide the requestor with (1) a written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general, and (2) a copy of the governmental body's written communication to the attorney general within ten business days of receiving the request for information. *Id.* § 552.301(d). Pursuant to section 552.302, a governmental body's failure to timely provide the requestor with a copy of its written

communication to this office results in the presumption that the information is public. *Id.* § 552.302. The board states, and the requestor confirms, the board received the instant request for information on November 24, 2015. We understand the board was closed November 26 and 27, 2015, for the Thanksgiving holiday. The board does not inform us it was closed for business on any of the remaining days at issue. This office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. Thus, the ten-business-day deadline to provide information to the requestor pursuant to section 552.301(d) was December 10, 2015. We note the board's request for a ruling to this office was timely hand-delivered on December 7, 2015. The request for a ruling indicates the requestor was copied on the correspondence. *See id.* § 552.308(a) (prescribing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the board complied with the procedural requirements mandated by subsection 552.301(d) of the Government Code.

Section 552.137 of the Government Code provides, "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c).<sup>1</sup> Gov't Code § 552.137(a)–(c). The requestor argues the e-mail addresses are specifically excluded under section 552.137(c)(5). We note subsection 552.137(c)(5) states that subsection 552.137(a) does not apply to an e-mail address "provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) of [the Government Code], or receiving orders or decisions from a governmental body." *Id.* § 552.137(c)(5). However, you state none of the exceptions in subsection (c) apply to the submitted e-mail addresses. Whether the email addresses at issue fall under subsection 552.137(c)(5) is a question of fact this office is unable to resolve in the opinion process. In such a situation, we must rely upon the facts alleged to us by the governmental body requesting our opinion or upon those facts that are discernible from the documents submitted for our inspection. Based on your representation that subsection 552.137(c)(5) is not applicable to the information at issue, we conclude the board must withhold the e-mail addresses in the submitted information under section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their release. As you raise no further exceptions to disclosure, the remaining information must be released.

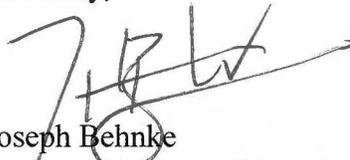
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

---

<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses under section 552.137, without the necessity of requesting an attorney general decision.

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,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 598659

Enc. Submitted documents

c: Requestor  
(w/o enclosures)