



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 18, 2016

Mr. Ashby Johnson
Executive Director
Capital Area Metro Planning Organization
P.O. Box 10888
Austin, Texas 78767

OR2016-08625

Dear Mr. Johnson:

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# 606186.

The Capital Area Metropolitan Planning Organization (the "organization") received a request for all information pertaining to two specified projects. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "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 demonstrated. *See id.* at 681-82. Types of information considered intimate and

¹We note, and you acknowledge, the organization did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness, we will consider the applicability of section 552.101 to the submitted information. *See id.* §§ 552.007, .302, .352.

embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation, Id.* at 683. We note addresses and telephone numbers of members of the public are generally not highly intimate or embarrassing. *See* Open Records Decision No. 455 at 7 (home addresses and telephone numbers not protected under privacy). Upon review, we find you have failed to demonstrate the information you have marked is highly intimate or embarrassing and not of legitimate public interest. Therefore, the organization may not withhold the information you have marked under section 552.101 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).² Gov’t Code § 552.137(a)-(c). The e-mail addresses we have marked are not of the type specifically excluded by section 552.137(c). Accordingly, the organization must withhold the e-mail addresses we have marked under section 552.137, unless the owners of the e-mail addresses affirmatively consent to their release. As no other exceptions to disclosure have been raised, 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.

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, 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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 606186

Enc. Submitted documents

c: Requestor
(w/o enclosures)