



April 24, 2002

Ms. Shelby Rogers
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

OR2002-2107

Dear Ms. Rogers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 163405.

The State Bar of Texas (the "Bar") received a request for the e-mail addresses of all members of the Bar's Labor Law Section. You claim that the submitted information is excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim and have reviewed the submitted sample information.¹

Section 552.137 of the Government Code requires the Bar to withhold 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 has affirmatively consented to its release.² Consequently, we conclude that, unless the individuals have consented, the Bar must withhold non-government, e-mail addresses from disclosure. We have marked the governmental e-mail addresses that the Bar must release.

¹We assume that the "sample" records submitted to this office are truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²Section 552.136 of the Government also excepts from public disclosure the e-mail address of a member of the public. Sections 552.136 and 552.137 contain identical language.

You state that the Bar receives frequent requests to provide e-mail addresses and request that this office issue a previous determination allowing the Bar to withhold the e-mail addresses from members of the public. After considering your request, we have decided that this letter ruling shall serve as a previous determination under section 552.301(a) that the non-government, e-mail addresses from members of the public are excepted from disclosure under section 552.137 of the Government Code, unless the members of the public have affirmatively consented to their release. *See* Gov't Code § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001).

This previous determination applies only to the non-government, e-mail addresses from members of the public that are requested of the State Bar of Texas. *See* Open Records Decision No. 673 at 7 (2001). Moreover, so long as the elements of law, fact and circumstances do not change so as to no longer support the findings set forth above, the Bar need not ask for a decision from this office again with respect to this type of information requested of the Bar. *See id.*

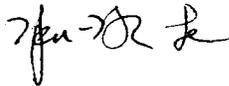
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss of the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 163405

Enc. Submitted document

c: Mr. Mark Smith
The Center for American and International Law
P.O. Box 830707
Richardson, Texas 75083-0707
(w/o enclosure)