ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2003

Mr. Thomas F. Best
General Counsel
Texas Commission on Alcohol and Drug Abuse
P.O. Box 80529
Austin, Texas 78708-0529

OR2003-5686

Dear Mr. Best:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 185951.

The Texas Commission on Alcohol and Drug Abuse (the "commission") received a request for "all current, non-exempt and non-confidential e-mail addresses held electronically by the [commission] in digital format including but not limited to 'licensees' and 'employees.'" You state that the commission will release some responsive information to the requestor. You claim, however, that a portion of the responsive 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.

As a preliminary matter, we note that the commission previously requested a decision from this office in relation to a request for the e-mail addresses of licensed chemical dependency counselors. We ruled on that request in Open Records Letter No. 2002-5266 (2002), issued September 18, 2002. To the extent the facts and circumstances surrounding the request have not changed, and to the extent the e-mail addresses responsive to the present request are identical to those at issue in Open Records Letter No. 2002-5266, the commission may rely on that decision as a previous determination. *See* Gov't Code § 552.301(f); *see also* Open Records Decision No. 673 (2001) (regarding previous determinations). With respect to the remaining responsive e-mail addresses, we consider your claim under section 552.137.

Section 552.137 of the Government Code provides:

> (a) 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 this chapter.

> (b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

The submitted e-mail addresses include e-mail addresses of members of the public that are within the scope of section 552.137. We determine that, unless the relevant individuals have consented to disclosure, the e-mail addresses of members of the public maintained by the commission are excepted from disclosure under section 552.137 of the Government Code. We note, however, that the work e-mail address of an employee of a governmental body, the general e-mail address of a business, and the website address of a business are not e-mail addresses of members of the public for purposes of section 552.137 and must be released. *See* Gov't Code § 552.137(b).

You ask this office to issue you a previous determination for e-mail addresses excepted under section 552.137 of the Government Code. We decline to issue a previous determination at this time.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

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 Dep't of Pub. 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 at 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,

David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 185951

Enc: Submitted documents

c: Mr. Brad L. Armstrong
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(w/o enclosures)