



ATTORNEY GENERAL OF TEXAS
G R E G A B B O T T

July 20, 2004

Mr. C. Brian Cassidy
Locke, Liddell & Sapp, L.L.P.
100 Congress Avenue, Suite 300
Austin, Texas 78701-4042

OR2004-6007

Dear Mr. Cassidy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 208383.

The Central Texas Regional Mobility Authority (the "authority"), which you represent, received a request for information "indicating citizens who were present and/or spoke at all of the public meetings held in 2004 in regards to the proposed toll road plan." You claim that a portion of the requested 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 begin by addressing the scope of this ruling. You indicate that some of the information at issue is subject to a previous ruling by this office. *See* Open Records Letter No. 2004-5485 (2004). The facts and circumstances surrounding that ruling do not appear to have not changed. To the extent that the submitted records consist of the same information that was at issue in Open Records Letter No. 2004-5485, the authority must comply with our prior ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (criteria of previous determination regarding specific information previously ruled on).

To the extent the submitted information is not subject to our prior ruling, we address your arguments. 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). *See* Gov't

Code § 552.137(a)-(c). We note that section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public" but is instead the address of the individual as a government employee. We also note that section 552.137 does not apply to a business's general e-mail address or website address.

None of the e-mail addresses you have marked appear to be of a type specifically excluded by section 552.137(c). We note, however, that some of these e-mail addresses pertain to government employees and others appear to be general e-mail addresses of businesses. Such addresses are not excepted from disclosure under section 552.137 and may not be withheld on that basis. Pursuant to section 552.137, the authority must withhold the remaining e-mail addresses unless it receives consent for their release.

In summary, to the extent the submitted records consist of the same information that was at issue in Open Records Letter No. 2004-5485, you must comply with our prior ruling. To the extent the submitted information is not subject to our prior ruling, the authority must withhold e-mail addresses of members of the public under section 552.137 unless the authority receives consent for their release; however, work e-mail addresses of government employees and general e-mail addresses of businesses must be released.

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

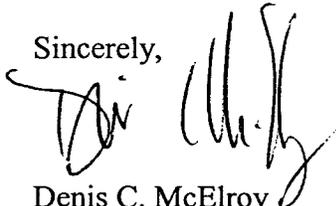
that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/sdk

Ref: ID# 208383

Enc. Submitted documents

c: Mr. Colin Clark
Save Our Springs Alliance
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(w/o enclosures)