



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 8, 2007

Mr. Miles T. Bradshaw
Feldman & Rogers, L.L.P.
For the Royal Independent School District
222 North Mound, Suite 2
Nacogdoches, Texas 75961

OR2007-05490

Dear Mr. Bradshaw:

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# 277840.

The Royal Independent School District (the "district"), which you represent, received a request for 1) the e-mail address, telephone number, and mailing address of each school board member; 2) the name, job title, work schedule, and pay of the two district employees who allegedly reported that the requestor's client was not keeping accurate time on her time sheet; 3) the name, job title, work schedule, pay, and supervisor of all secretaries at Royal High School; and 4) whether these individuals are hourly or salaried, exempt or non-exempt. You state that you have released some information to the requestor, but claim that the submitted information is excepted from disclosure under sections 552.135 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us that some of the submitted information, pages 28 and 29, is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release this information in response to the request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd).

Section 552.135 of the Government Code provides in part:

(a) “Informer” means a student or former student or an employee or former employee of a school district who has furnished a report of another person’s or persons’ possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer’s name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student’s or former student’s name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee’s or former employee’s name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov’t Code § 552.135(a)-(c). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of “law,” a school district that seeks to withhold information under this exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* §§ 552.301(e)(1)(A), .135(a). Additionally, we note that individuals who provide information in the course of an investigation but do not make the initial report are not informants for the purposes of claiming section 552.135 of the Government Code. You state that some of the submitted information reveals the identities of employees of the district who reported possible violations of the federal Fair Labor Standards Act and section 37.10 of the Texas Penal Code. Based on your representations and our review of the information in question, we conclude that the district must withhold the identity of the individuals who made the initial reports, which we have marked under section 552.135 of the Government Code. However, the district has failed to demonstrate how the remaining information at issue reveals the identify of an informer for section 552.135 purposes. Accordingly, none of the remaining information may be withheld on this basis.

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). You state that the owners of the e-mail addresses contained in the submitted information have not consented to the disclosure of their e-mail addresses.

However, 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. Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. We also note that some of the e-mail addresses at issue are available on the district's website. Accordingly, these e-mail addresses are not excepted from disclosure under section 552.137 and must be released. We have marked e-mail addresses that the district must withhold under section 552.137 of the Government Code.

In summary, the district must withhold the information we have marked pursuant to section 552.135 of the Government Code. The district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code. The remaining information must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

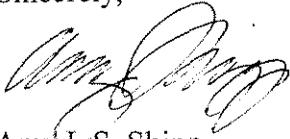
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

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 Office of the Attorney General 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. 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/mcf

Ref: ID# 277840

Enc. Submitted documents

c: Ms. Iona West
3126 Pickwood Drive
Pearland, Texas 77584
(w/o enclosures)