



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 4, 2007

Ms. Laura M. Jamouneau
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.
P.O. Box 2156
Austin, Texas 78768

OR2007-11448

Dear Ms. Jamouneau:

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# 288159.

The Leander Independent School District (the "district"), which you represent, received a request for communications between two named individuals and two named companies for a specified time period. You state that the district will release most of the requested information. You claim that some of the requested information is excepted from disclosure under sections 552.105, 552.111, 552.117, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.105 of the Government Code excepts from disclosure information relating to:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Gov't Code § 552.105. This exception is designed to protect a governmental body's planning and negotiating position in transactions involving the purchase of real or personal

property for a public purpose until the transaction has been completed. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982).

You state that the information in Tabs 2 and 5 “discuss sites where the [d]istrict is currently engaged in negotiations regarding the purchase of the property. Formal contracts have not been awarded, and the projects have not been publically announced.” You indicate that release of Tabs 2 and 5 would harm the district’s negotiating position for purposes of section 552.105. Based on your representations, and our review of the submitted documents, we conclude that the district may withhold Tabs 2 and 5 under section 552.105 of the Government Code.¹

You assert that some of the information in Tab 4 is excepted under section 552.117 of the Government Code. Section 552.117(a)(1) excepts from disclosure the current and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You state that the employee at issue elected, prior to the district’s receipt of the request for information, to keep such information confidential under section 552.024. Accordingly, we conclude that the district must withhold the information we have marked in Tab 4 under section 552.117 of the Government Code.

Finally, the district asserts that some of the information in Tab 3 is excepted from disclosure under section 552.137 of the Government Code. This section 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). The e-mail addresses you have marked do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that a member of the public has affirmatively consented to the release of any e-mail address contained in Tab 3. Therefore, we agree that the district must withhold the e-mail addresses you have marked, as well as the additional e-mail addresses we have marked, under section 552.137 of the Government Code.

In summary, the district may withhold Tabs 2 and 5 under section 552.105 of the Government Code. The district must withhold the information we have marked in Tab 4 under section 552.117 of the Government Code. The district must withhold the e-mail addresses you have marked, as well as the additional e-mail addresses we have marked, in

¹As our ruling is dispositive for this information, we need not address your argument under section 552.111.

Tab 3 under section 552.137 of the Government Code. The remaining submitted 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,

A handwritten signature in black ink, appearing to read "Jennifer Luttrall". The signature is fluid and cursive, with a large initial "J" and a distinct "L" at the end.

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Ref: ID# 288159

Enc. Submitted documents

c: Mr. Pete Isburgh
8037 Tahoe Parke Circle
Austin, Texas 78726
(w/o enclosures)