



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 13, 2007

Ms. Kristy J. Orr
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2007-16457

Dear Ms. Orr:

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# 297492.

The City of Houston (the "city") received a request for eleven categories of information pertaining to the employment of a named individual, including a specified list of e-mail addresses. You state that you have released some of the requested information. You also state that the city does not maintain portions of the requested information.¹ You claim that portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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). Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to a government employee's work e-mail address because

¹The Act does not require a governmental body to release information that did not exist when a request for information was received, create information responsive information, or obtain information that is not held by or on behalf of the city. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

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. The e-mail addresses we have marked do not appear to be of a type specifically excluded by section 552.137(c). You state that the relevant members of the public have not consented to the release of these e-mail addresses. Therefore, the city must withhold the e-mail addresses we have marked under section 552.137. As you raise no other arguments against disclosure of the submitted information, it 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

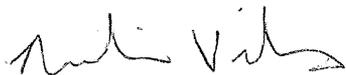
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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 "Melanie Villars". The signature is fluid and cursive, with the first name "Melanie" and last name "Villars" clearly distinguishable.

Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/jb

Ref: ID# 297492

Enc. Submitted documents

c: Mr. Daniel J. Olivares
37125 Donigan Road
Brookshire, Texas 77423
(w/o enclosures)