



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2008

Ms. Michele Ritter
Assistant City Attorney
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2008-04263

Dear Ms. Ritter:

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# 306222.

The City of Irving (the "city") received a request for information pertaining to a specified address within the past year.¹ You state that the city will release some of the information to the requestor. However, you claim that a portion of the remaining information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you raise 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). 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. Gov't Code § 552.137. We have marked the e-mail addresses in the submitted documents that are within the scope of section 552.137(a). Unless the city has received affirmative consent to disclose the e-mail

¹ You inform us that the requestor clarified her original request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of narrowing or clarifying request for information).

addresses we have marked, the city must withhold this information under section 552.137 of the Government Code. The remaining e-mail addresses, however, are general business e-mail addresses. Thus, the remaining e-mail addresses may not be withheld under section 552.137 and 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,



Chanita Chantaplin-McLelland
Assistant Attorney General
Open Records Division

CC/mcf

Ref: ID# 306222

Enc. Submitted documents

cc: Dr. Lori A. Davis
c/o Ms. Michele Ritter
Assistant City Attorney
City of Irving
825 West Irving Boulevard
Irving, Texas 75060
(w/o enclosures)