



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 4, 2008.

Mr. Jason D. King
Akers & Boulware-Wells, L.L.P.
816 Congress Avenue, Suite 1725
Austin, Texas 78701

OR2008-16524

Dear Mr. King:

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# 329249.

The City of Rollingwood (the "city"), which you represent, received a request for e-mails to or from specified individuals pertaining to the Gentry Parking Lot petition during a specified time period. You indicate you will release a portion of the requested information. You claim portions of the submitted information are excepted from disclosure under sections 552.107, 552.111, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

We note some of the submitted e-mails, which we have marked, are not responsive to the instant request because they were not created during the specified time period. The city need not release nonresponsive information in response to this request and this ruling will not address that information.

Next, we note the responsive information is subject to a previous ruling issued by this office. On December 1, 2008, this office issued Open Records Letter No. 2008-16270 (2008), in which we ruled the city may withhold portions of the submitted information under sections 552.107 and 552.111 of the Government Code and must withhold private e-mail addresses under section 552.137. We also ruled the city must withhold the information we marked under section 552.117 of the Government Code if the employees at issue timely elected to withhold that information; however, the city may only withhold the cellular

telephone number we marked under section 552.117 if the employee at issue paid for the cellular telephone service with her own funds. There is no indication the pertinent facts and circumstances have changed since the issuance of that prior ruling. Thus, we determine the city must continue to rely on our ruling in Open Records Letter No. 2008-16270 as a previous determination and withhold or release the responsive information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling).

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). If the governmental body does not file suit over 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).

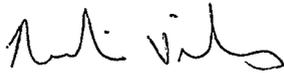
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/eeg

Ref: ID# 329249

Enc. Submitted documents

c: Requestor
(w/o enclosures)