



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 6, 2009

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

OR2009-02970

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# 336775.

The City of Rollingwood (the "city"), which you represent, received a request for the Attorney General's opinion in Open Records Letter No. 2008-16452, as well as the documents that were produced pursuant to Open Records Letter No. 2008-16452. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note that the requestor seeks a copy of the Attorney General's opinion in Open Records Letter No. 2008-16452. You have not submitted this opinion as part of the responsive information in Exhibit B. Therefore, we assume this opinion has been released to the requestor. If this opinion has not been released, then it must be released at this time. *See Gov't Code §§ 552.301(a), .302; see also* Open Records Decision No. 664 (2000) (if

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we address your assertion that the city need not release the submitted information to the requestor because it has been previously released to the requestor's client. Generally, section 552.232 of the Government Code outlines the procedures a governmental body must follow in responding to a repetitious or redundant request. Gov't Code § 552.232. However, in this instance, you acknowledge that the submitted information is not precisely the same information that was previously released. Accordingly, you have failed to establish that this is a repetitious or redundant request for purposes of the Act. Thus, we will address your arguments against disclosure of the submitted information.

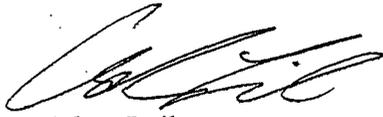
You acknowledge that the city previously released the submitted information pursuant to Open Records Letter No. 2008-16452. However, you state that the release pursuant to this ruling does not constitute a voluntary disclosure under section 552.007(a). *See* Gov't Code § 552.007(a) (generally prohibiting selective disclosure of information that governmental body voluntarily made available to member of the public). We note that because the information at issue was ordered to be released in Open Records Letter No. 2008-16452, this office has concluded that the information is not excepted from disclosure under the Act. Pursuant to section 552.301(f) of the Government Code, once this office has determined that information is not excepted from disclosure, a governmental body may not seek another ruling pertaining to precisely the same information. *See id.* § 552.301(f). Further, you only seek to withhold this information under section 552.103 of the Government Code, which is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally); *see also* Gov't Code § 552.007. Therefore, because this office has previously determined that this precise information is not excepted from disclosure, you may not now seek to withhold the information under section 552.103 of the Government Code.

We note that portions of the submitted information contain e-mail addresses that are confidential under section 552.137 of the Government Code. Section 552.137 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). 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. Thus, the city must withhold the e-mail addresses we have marked under section 552.137. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/jb

Ref: ID# 336775

Enc. Submitted documents

c: Requestor  
(w/o enclosures)