



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2009

Ms. Andrea Sheehan
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2009-05695

Dear Ms. Sheehan:

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# 341428.

The Carrollton-Farmers Branch Independent School District (the "district"), which you represent, received a request for all e-mails received or reviewed by a named district employee during a specified time period and all contracts that mention, relate, or refer to the named employee.¹ You have redacted social security numbers pursuant to section 552.147 of the Government Code.² You state that some of the requested information is being released to the requestor. You claim that a portion of the submitted information is not subject to the

¹We note the request also included a request for all documents pertaining to all Level One Disciplinary Hearings recommendations during a specified time period where the recommendation was not affirmed by the hearing officer. You state that the district sought and received clarification with regard to this third category of the request. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed). Further, you inform this office that "[d]ue to the clarification request, the district is processing [the third category] of the request separately, and this request for a ruling is only being submitted in relation to [the first two categories of the request] at this time."

²We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Act. You also contend that portions of the submitted information are excepted from disclosure under sections 552.117 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we address your contention that the e-mails in Exhibit B are not subject to the Act. The Act is only applicable to "public information." See Gov't Code § 552.021. Section 552.002(a) defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." *Id.* § 552.002(a). Thus, virtually all information that is in a governmental body's physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); see also Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Upon review of the e-mails in Exhibit B, we agree that they do not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the district. See Gov't Code § 552.021; see also Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimis use of state resources). Thus, we conclude that Exhibit B is not subject to the Act, and need not be released in response to this request.

Next, you claim that the information you have highlighted in Exhibit C is subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from public disclosure the present and former home addresses of a current or former official or employee of a governmental body who timely requests under section 552.024 that this information be kept confidential. Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. See Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. You inform us that the employee at issue made a timely election for confidentiality of his home address under section 552.024. Accordingly, the district must withhold the home address that you have highlighted in Exhibit C under section 552.117(a)(1) of the Government Code.

Finally, you claim that the e-mail address you have highlighted in Exhibit D is subject to 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). The e-mail address at issue is not of a type specifically excluded by section 552.137(c). Accordingly, the district must withhold the highlighted e-mail address

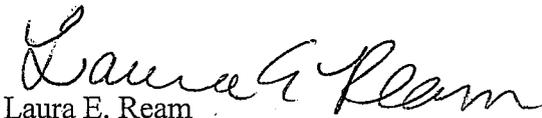
in Exhibit D under section 552.137, unless the owner of the e-mail address consents to its release.

In summary, the e-mails in Exhibit B are not subject to the Act, and need not be released in response to this request. The district must withhold the information you have highlighted in Exhibit C under section 552.117(a)(1) of the Government Code. Unless the owner of the e-mail address consents to its release, the district must withhold the information you have highlighted in Exhibit D under section 552.137 of the Government Code. The remaining information in Exhibits C and D 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, 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,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/dls

Ref: ID# 341428

Enc. Submitted documents

c: Requestor
(w/o enclosures)