



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 16, 2009

Ms. Ingrid K. Hansen
Deputy General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR2009-08312

Dear Ms. Hansen:

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# 350599.

The Texas Water Development Board (the "board") received a request for the e-mail addresses of its board members. You claim that the requested information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

Section 552.137 of the Government Code provides that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. Gov't Code § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. You seek to withhold personal e-mail addresses maintained by board members themselves under section 552.137.¹ You inform us that the board members concerned have not affirmatively

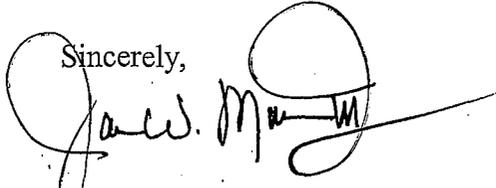
¹You inform us that one member of the board does not maintain a personal e-mail address. We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

consented to the public disclosure of their personal e-mail addresses. Based on your representation, we conclude that the board must withhold the board members' personal e-mail addresses under section 552.137 of the Government Code.

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is stylized with a large, circular flourish at the beginning and a long horizontal stroke extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 350599

Enc: Submitted documents

c: Requestor
(w/o enclosures)