



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2009

Ms. Karen McNair
Assistant County Attorney
Liberty County Attorney's Office
P.O. Box 9127
Liberty, Texas 77575

OR2009-10181

Dear Ms. McNair:

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# 349677.

The Liberty County Attorney's Office (the "county") received a request for "all cell phone records since March 26th of Judge Phil Fitzgerald up until the day he notified the county he would no longer seek reimbursement." The county has released all bills for which the county judge received reimbursement up to March 27, 2009. However, the county claims bills after March 27 are not subject to the Act because the county judge no longer seeks reimbursement for usage on his personal cellular phone. We have considered the county's arguments and comments submitted by the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

The Act applies to "public information," which is defined under section 552.002 as:

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

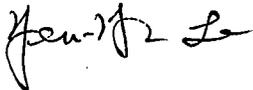
- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002. The county explains it does not supply the county judge with a county owned cellular phone. Although the county used to reimburse the county judge fifty dollars per month for his phone usage, the county judge states in his April 30, 2009 letter that effective February 2009, he no longer seeks reimbursement from the county. Thus, the county judge pays the bills for his personal cellular telephone with his personal funds since February 2009 and no longer receives reimbursement from the county for use of his personal cellular telephone. Based on these representations, we understand the county does not collect, assemble, or maintain or have a right of access to the county judge's personal cellular phone records. Thus, we agree the post-March 27th personal cellular telephone records are not "public information" under the Act, and the county need not release them.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 349677

c: 2 Requestors