



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 30, 2009

Mr. Mark Wolfe
Deputy Executive Director
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276

OR2009-10582

Dear Mr. Wolfe:

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# 350665.

The Texas Historical Commission (the "commission") received a request for information related to a specified historical marker. You state that you will release some of the requested information to the requestor. You claim that some of the submitted information is excepted from disclosure under sections 552.107 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note that a portion of the submitted information, which we have marked, is not responsive to the instant request because it was created after the date the commission received this request. The commission need not release non-responsive information in response to this request, and this ruling will not address such information.²

Section 552.137 of the Government Code provides "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental

¹We 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.

²As we are able to make this determination, we need not address your arguments under section 552.107 for this non-responsive information.

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. Furthermore, because the purpose of section 552.137 is to protect the privacy interests of individuals, the requestor’s e-mail address may not be withheld from him under section 552.137. *See id.* § 552.023(b) (governmental body may not deny access to person or person’s representative to whom information relates on grounds that information is considered confidential under privacy principles). Thus, the commission must withhold the personal e-mail addresses we have marked under section 552.137, unless the owners of the e-mail addresses have affirmatively consented to their public disclosure. As you raise no further exceptions to disclosure, the remaining responsive information must be released.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 350665

Enc. Submitted documents

c: Requestor
(w/o enclosures)