



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2009

Ms. Angela M. DeLuca
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2009-11115

Dear Ms. DeLuca:

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# 351828.

The City of Bryan (the "city") received a request for all e-mails sent and received from a specified e-mail address on May 12, 2009. You state you have released most of the requested information. You claim the submitted information is excepted from disclosure under sections 552.131 and 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.131(b) of the Government Code provides "[u]nless and until an agreement is made with [a] business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from [required public disclosure]." Gov't Code § 552.131(b). You state the submitted e-mails relate to economic development negotiations involving the city and a business prospect and include information about possible incentives that may be offered by the city to the business prospect. You explain that negotiations are ongoing, and a final agreement has not been reached. However, the submitted information consists of general contract negotiations and background information and does not disclose incentives offered by the city to a business

¹Although you initially raised sections 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume that you have withdrawn this exception. See Gov't Code §§ 552.301, 552.302.

prospect. Thus, we find you have not sufficiently demonstrated how the submitted information consists of a financial or other incentive for purposes of section 552.131(b). Accordingly, no part of the submitted information may be withheld pursuant to section 552.131(b).

Section 552.137 of the Government Code states 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. *Id.* § 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. We have marked e-mail addresses that the city must withhold under section 552.137 unless the owner of an e-mail address has affirmatively consented to its public disclosure. As you raise no further exceptions to disclosure, 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, 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 351828

Enc. Submitted documents

cc: Requestor
(w/o enclosures)