



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2010

Mr. Joe Gorfida Jr.
Nichols, Jackson, Dillard, Hagar & Smith L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2010-00704

Dear Mr. Gorfida:

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# 367363.

The City of Richardson (the "city"), which you represent, received a request for a distribution list for specified information supplied to the city council. You state you have provided most of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, we note that the requestor contends, among other things, that the city failed to comply with the procedural requirements of section 552.301(b) of the Government Code. Section 552.301 requires a governmental body that desires to withhold information under the Act to ask for the attorney general's decision and state the exceptions that apply no later than ten business days after the date of receiving the written request. In this instance, the city states it received the request for information on October 21, 2009. We also note the request is dated October 21, 2009. Accordingly, the tenth business day by which the city was required to request a decision from this office was November 4, 2009. *See id.* § 552.308(a) (ten-day requirement met if request bears post office cancellation mark indicating time within ten-day period). The city's request for a decision from this office was postmarked on November 4, 2009. Upon consideration of the requestor's comments and review of the

submitted information, we conclude that the city fully complied with the requirements of section 552.301 of the Government Code in requesting this decision.

You claim the information you have marked is excepted from public disclosure under 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 id.* § 552.137(a)-(c). We note that 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 state that the owners of the e-mail addresses you have marked have not consented to the release of their information. Therefore, the city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code.¹ We note that you seek to withhold names under section 552.137. However, section 552.137 only applies to e-mail addresses and the names you have marked may not be withheld under section 552.137. As you raise no further exceptions against disclosure, the city must release the remainder of the submitted information 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, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137, without the necessity of requesting an attorney general decision.

Ref: ID# 367363

Enc. Submitted documents

cc: Requestor
(w/o enclosures)